**Calendar No. 426**

| 99TH CONGRESS *1st Session* | SENATE | REPORT 99-194 |
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# SEX DISCRIMINATION IN THE UNITED STATES CODE REFORM ACT OF 1985

## REPORT

OF THE

## COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ON

## S. 86

NOVEMBER 21 (legislative day NOVEMBER 18), 1985.—Ordered to be printed

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# CONTENTS


| | | Page |
|---|---|---|
| I. | Purpose of the bill | 1 |
| II. | History of the bill and committee proceedings | 1 |
| III. | History of efforts to eliminate sex-based laws from the U.S. Code | 3 |
| IV. | Scope of S. 86 | 4 |
| V. | Overview of laws amended by S. 86 | 5 |
| VI. | Gender-based statutes which would not be amended by S. 86 | 7 |
| VII. | Section-by-section summary | 7 |
| VIII. | Budget impact | 19 |
| IX. | Regulatory impact evaluation | 20 |
| X. | Changes in existing law | 20 |

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# SEX DISCRIMINATION IN THE UNITED STATES CODE REFORM ACT OF 1985

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Mr. THURMOND, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany S. 86]

The Committee on the Judiciary, to which was referred the bill (S. 86) to amend the laws of the United States to eliminate gender-based distinctions, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

## I. PURPOSE OF THE BILL

The purpose of the bill is to amend the United States Code to revise or eliminate over 200 provisions which, on their face, substantively discriminate against persons on the basis of gender.

## II. HISTORY OF THE BILL AND COMMITTEE PROCEEDINGS

On December 21, 1981, President Reagan signed Executive Order 12,336, establishing the Task Force on Legal Equity for Women. The Task Force was established "to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities." [1]

The Executive Order further assigned to the Attorney General the responsibility to complete a review of Federal laws, regulations, policies, and practices, and to identify and periodically report to the President on any language or provision that "unjustifiably dif-

[1] 40 Fed. Reg. 62,239 (Dec. 23, 1981).

ferentiates, or which effectively discriminates, on the basis of sex." [2]

On June 28, 1982, the Attorney General transmitted to the President's Cabinet Council on Legal Policy his First Quarterly Report, as required by Executive Order 12,336.[3] The report included a list of more than 100 Federal statutes which, on their face, made substantive distinctions based on gender. The list was generated by a 1977 computer search performed by the Department of Justice.[4]

On October 1, 1982, Senator Robert Dole, with the support of the President,[5] introduced S. 3008, the "Sex Discrimination in the U.S. Code Reform Act." This bill contained proposed amendments to most of the sex-based Code provisions identified in the First Quarterly Report. S. 3008 was referred to the Committee on the Judiciary, but because it was introduced near the end of the 97th Congress, no further action was taken on the bill. On February 15, 1983, Senator Dole reintroduced the measure in the 98th Congress as S. 501. The bill was again referred to the Judiciary Committee and, then, to the Subcommittee on the Constitution on March 16, 1983.

In July 1983, the Attorney General transmitted the Third Quarterly Report.[6] This report contained an updated listing of sex-based laws, based on a more recent, comprehensive computer-assisted review of the U.S. Code conducted by the Civil Rights Division of the Department of Justice. As a consequence, it identified over 50 additional sex-based laws which had not been identified in the June 28 report. On September 7, 1983, the President met with his Cabinet Council on Legal Policy and accepted the Council's recommendation to propose amendments to most of these newly identified statutes.[7]

On September 12, 1983, pursuant to the President's recommendations, Senator Dole filed an amendment to S. 501 to eliminate the gender-based distinctions in these newly identified statutes. On September 30, after approving the President's recommended changes and an amendment offered by Senator Orrin Hatch, Chairman of the Subcommittee, to revise nearly 40 other laws containing sex-based distinctions, the Constitution Subcommittee unanimously reported S. 501 to the Full Committee. On November 10, 1983, the Judiciary Committee, with a quorum present, by voice vote, and without objection heard, ordered the bill, as amended by the Subcommittee, reported. S. 501 was subsequently considered by the full Senate and approved by voice vote on April 26, 1984. No further action was taken by the House of Representatives.

On January 3, 1985, Senator Dole introduced S. 86, an identical bill to S. 501, as approved by the full Senate. Following the adop-

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[2] *Id.*, Sec. 2(c).

[3] First Quarterly Report of the Attorney General to the President and Cabinet Council on Legal Policy as Required by Exec. Order 12,336 (June 28, 1982).

[4] *Id.* at 6.

[5] Letter from President Ronald Reagan to Senator Robert Dole (September 27, 1982).

[6] Third Quarterly Report of the Attorney General to the President and Cabinet Council on Legal Policy as Required by Executive Order No. 12,336 (July 1983). The Second Quarterly Report was transmitted on December 3, 1982. It announced that the Justice Department had authorized an updated computer search of the Code and Federal regulations, and that these tasks were "well underway."

[7] *See*, discussion at section VI, *infra*, for a listing of those statutes which would not be amended.

tion of a package of amendments offered by Senator Hatch, the Subcommittee on the Constitution voted 5–0 on June 26 to favorably report S. 86. On October 31, 1985 the Judiciary Committee approved S. 86, as amended, on a voice vote.

## III. HISTORY OF EFFORTS TO ELIMINATE SEX-BASED LAWS FROM THE U.S. CODE

As the Attorney General's First Quarterly Report notes, the drive to root out laws which discriminate on the basis of sex is not a new effort.[8] Beginning in the mid-1970's, work began in earnest to identify and revise or eliminate statutes providing for the inequitable treatment of the sexes.

The first effort to identify such laws was completed by the U.S. Civil Rights Commission in 1977.[9] This study identified approximately 800 laws containing sex-based distinctions scattered throughout the Code. A second, more comprehensive effort was began in 1976 pursuant to the directive of President Ford. The results of this study, issued in 1978 by the Civil Rights Division of the Justice Department, revealed more than 3,000 Code sections containing sex-based references.[10]

Both reports noted that many of the identified provisions were obsolete, of relatively minor importance, or involved terminological problems having no substantive effect. Both concluded, however, that significant substantive problems had been identified, particularly with regard to the military, Federal retirement income policies, and employee benefits. Finally, both reports observed that because of their pervasiveness, the cumulative impact of these provisions was to imply an inferior or dependent status for women under the laws of the United States.

Neither of these studies resulted in omnibus legislation to eliminate the laws which had been identified as being sex-based. However, since the completion of these reports, many of the identified laws have been changed as part of larger legislative efforts to rewrite or amend certain portions of the Code.[11] For example, the Defense Officer Personnel Management Act[12] eliminated or revised scores of Code sections which subjected men and women to separate personnel standards and procedures. More recently, the Social Security Amendments Act of 1983 eliminated most of the remaining sex-based distinctions in the Social Security system.[13]

In addition, Congress has over the past several years enacted certain "rules of construction" designed to provide for equal treatment of the sexes. For instance, to ensure that the use of sex-based terminology does not inadvertently result in substantive discrimi-

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[8] *Supra* note 3, at 3.

[9] U.S. Commission on Civil Rights, Sex Bias in the U.S. Code (April 1977).

[10] Interim Report to the President by the Task Force on Sex Discrimination, Civil Rights Division, U.S. Department of Justice (October 3, 1978).

[11] The appendix to the Attorney General's First Quarterly Report listed numerous provisions identified in the 1978 Justice Department Report that had already been amended.

[12] 94 Stat. § 2835 (1980).

[13] P.L. 98–21. The amendments contained in P.L. 98–21 were identical to those contained in S. 501, as introduced. Again, it should be emphasized that P.L. 98–21 eliminated only those laws which facially discriminate. The Committee is aware that several concerns have been raised about the treatment of homemakers and secondary wage-earners under the Social Security system; however, as noted below, these issues are beyond the scope of the Committee bill.

nation, Congress enacted 1 U.S.C. § 1, which provides that: "In determining the meaning of any Act of Congress, unless the context indicates otherwise, words importing the masculine gender include the feminine as well." Further, to address disparities in employment benefits, Congress enacted 5 U.S.C. § 7202(c), which provides that: "Notwithstanding any other provision of law, any provision of law providing benefits to a male Federal employee or his spouse or family shall be deemed to provide the same benefits to a female Federal employee or to her spouse or family." However, it should be noted that the effect of this provision is limited because it applies, by its terms, only to "Federal employees" and not, for instance, to members of the Armed Forces or employees of the Postal Service.[14]

While significant progress has been made as a result of these past efforts, the review by the Department of Justice found that numerous laws expressly providing for substantive differences in treatment on the basis of sex still exist throughout the Code. A handful of these are clearly obsolete or archaic, in which case they would be repealed by S. 86. The substantive effect of some others has already been negated through agency action or court decision, in which case they would be amended to conform to existing practice and case law. A number of these laws, however, are of continuing applicability. Thus, while the breadth of the statutory problem addressed by S. 86 should not be overstated, it should also be emphasized that the amendments made by the bill involve much more than mere "technical" changes to language. Rather, a great many of the changes will positively impact upon individuals who, in a variety of relatively narrow areas, may otherwise by subject to unfair or arbitrary treatment under the law.

## IV. SCOPE OF S. 86

As Senator Dole emphasized when introducing S. 86, this legislation is targeted only at those statutes which, on their face, contain substantive, gender-based distinctions. Thus the bill does not address those provisions which some might regard as containing more subtle forms of discrimination. Generally, such provisions involve more complex policy issues, and as a consequence, should be dealt with through the consideration of separate legislation.[15]

For similar reasons, the bill does not address controversial Code sections such as the Selective Service and combat limitations contained in Title 10, consistent with the bill's limited goal of eliminating those remaining gender-based distinctions which are clearly incompatible with settled, well-established public policy.[16] Finally, the bill does not seek to eliminate from the Code sex-based terminology having no substantive effect, though the Committee encourages avoidance of such terminology in the drafting of new legislation.

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[14] 5 U.S.C. § 2105.

[15] *See e.g.*, Examining potential economic discrimination against women with regard to certain Federal tax and retirement income policies: Hearings on S. 19 and S. 888 before the Senate Finance Committee, 98th Congress, 1st Session.

[16] *See*, discussion at section VI, *infra*.

## V. OVERVIEW OF LAWS AMENDED BY S. 86

S. 86, as reported, would revise or eliminate from the Code over 200 statutory provisions which still contain some type of overt, substantive sex-based distinction. Most of the provisions can be categorized as follows:

### Family Benefits

A large portion of the laws amended by S. 86 provide various benefits, rights, or privileges to the "wives, widows" or dependent children of male workers, but make no provision for the families of similarly situated female workers. This type of sex-based distinction was found in such areas as government pension, disability, and survivor's benefits; [17] worker's compensation; [18] commissary privileges; [19] transportation expenses; [20] and burial rights.[21]

In most instances, these distinctions were probably based on the assumption that benefits would not be needed by women's families because of the presumed existence of a wage-earning husband. In a few instances, however, the assumption may have been that benefits for "husbands and widowers" were unnecessary because certain occupations would be held by men only.[22] In any event, the Committee notes that such distinctions run counter to the fact that women have now entered a wide range of career fields, and often provide a significant, if not the sole, source of economic support for their families.

### Barriers to Equal Opportunity

Another category of laws which would be remedied by S. 86 discriminate against women with regard to certain educational, training, and employment opportunities.

Examples include 41 U.S.C. § 35, which requires a minimum age of 16 for boys, but 18 for girls, in setting employment standards for Federal contractors. Similarly, 42 U.S.C. § 433(a) gives priority to "unemployed fathers" over mothers and pregnant women with regard to the testing and counseling of work incentive program participants. Another example is 25 U.S.C. § 274, which calls for the Bureau of Indian Affairs to train Indian boys as farmers and industrial workers, and Indian girls as assistant matrons. Of the same genre are laws which discriminate against women with regard to the use of military rifle ranges,[23] the provision of mili-

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[17] *See, e.g.*, 10 U.S.C. § 1431(b)(3) (military personnel may elect reduced retirement pay to provide "widow's" benefit); 24 U.S.C. § 165 (pensions of St. Elizabeth's patients may be used for the benefit of "wives"); 42 U.S.C. § 165 (disability and death benefits provided "wives" of nonresident aliens employed on defense bases).

[18] *See, e.g.*, 33 U.S.C. § 909 (dependency requirement imposed for survivor's benefits for families of female workers in certain instances under the Longshoreman's and Harbor Workers Compensation Act).

[19] *See, e.g.*, 10 U.S.C. § 7601; 33 U.S.C. § 857-4.

[20] *See, e.g.*, 8 U.S.C. § 1353.

[21] *See, e.g.*, 70 Stat. § 124 (April 30, 1956).

[22] *See, e.g.*, 30 U.S.C. § 801 et seq. The Federal Mine Safety and Health Act which, in authorizing benefits for the families of black lung benefits, assumes throughout that the miner is male. At the time these provisions were enacted, Federal law prohibited women from working in a mine below the surface. (30 U.S.C. § 187, amended in 1978.) *See also*, 18 U.S.C. § 3056 and 15 U.S.C. § 1052(c) providing, respectively, for Secret Service protection and trademark rights for the "widows" of deceased U.S. Presidents.

[23] *See, e.g.*, 10 U.S.C. § 4309.

tary training equipment to educational institutions,[24] and apprenticeships in the sea service.[25]

### Family Relationships

Several of the statutes amended by S. 86 are based on the view of men as the dominant or "more important" members of a family. Thus, the homesteading laws still authorize the husband to determine the family's residence.[26] Moreover, various sections of Title 10 still give preference to "fathers" over "mothers" and "brothers" over "sisters" in distributing the effects of deceased military personnel.[27]

### Criminal Sexual Activity

Another category of laws which would be amended by S. 86 involve the use of sex-based distinctions in defining criminal sexual activity.[28] For instance, both the Criminal Code and Code of Military Justice still define "rape" and "statutory rape" as offenses which can only be committed by a man against a woman.[29] Similarly, statutes dealing with the use of interstate or foreign commerce for the purpose of prostitution are violated only if the offense involves transporting "women or girls".[30]

### Protective Provisions

A final category includes laws which were enacted to protect women from discriminatory treatment.[31] For instance, some of the statutes found in Title 8 of the Code were intended to protect women from laws existing in the early part of the century in this country (and found likewise in the customs and conventions of foreign countries) making the citizenship status of a woman dependent on that of her husband.[32] Similar statutes can be found in Title 25 which were enacted to protect Indian women from tribal customs giving a non-Indian husband all of his spouse's tribal property, and divesting the children of such marriages of tribal property rights.[33] In the same vein are sections of Title 10 which restored benefits to nurses and other female medical personnel who received special appointments during World War II and were then demoted when the war was over.[34]

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[24] *See, e.g.*, 10 U.S.C. § 4651; 10 U.S.C. § 9651.

[25] *See, e.g.*, 46 U.S.C. § 561; 46 U.S.C. § 331.

[26] *See, e.g.*, 43 U.S.C. § 161 et seq.

[27] *See, e.g.*, 10 U.S.C. §§ 4712(d), 4713(a)(2), 9712(d), 9712(a)(2).

[28] Some members of the Committee have expressed the connern that the deletion of gender-based distinctions in the definitions of Federal criminal sexual activity could dilute the protection currently afforded women under these laws. It is the Committee's intention and belief that the amendments made by this bill will not weaken the effectiveness of these laws, but rather will broaden their scope by recognizing the reality that rape, statutory rape, and prostitution can involve homosexual, as well as heterosexual, activity.

[29] *See, e.g.*, 18 U.S.C. § 920 (a) and (b).

[30] *See, e.g.*, 18 U.S.C. § 2421 et seq.

[31] Where such statutes are obsolete, they would be repealed by S. 86. Where the protections may still be needed, they would be recast in gender-neutral terms.

[32] 8 U.S.C. §§ 1451, 1452, 1489.

[33] 25 U.S.C. §§ 181–184.

[34] 10 U.S.C. §§ 3683, 3963, 8683, 8963.

## VI. GENDER-BASED STATUTES WHICH WOULD NOT BE AMENDED BY S. 86

S. 86 does not address sex-based distinctions of a controversial nature or those of sufficient technical complexity to warrant independent consideration by the committee with the appropriate expertise.

Examples of controversial laws which are not addressed include the Selective Service and combat limitations found in Title 10 and statutes requiring affirmative action that benefits women, which some oppose as constituting an unlawful form of reverse discrimination, and some support as means of compensation for past inequities.

Examples of complex laws which would not be amended include sections of Title 10 which require separate promotion consideration for men and women among Naval and Marine Corps Reserve officers. The Department of Defense is in the process of studying and developing reforms to the entire reserve officer personnel and management system, and is expected to soon propose comprehensive legislation which will include the elimination of these sex-based distinctions.[35]

## VII. SECTION-BY-SECTION SUMMARY

### TITLE I, PART A.—AMENDMENTS RELATING TO THE ARMED FORCES AND THE SOLDIERS' HOME

*Section 101* would amend 10 U.S.C. 920 (a) and (b), which are the rape and statutory rape sections of the military code. As currently written, these sections apply only if the offender is a man and the victim a woman. The sections would be amended so that they apply without regard to the gender of the victim or the offender.

*Section 102(a)* pertains to 10 U.S.C. 3683 which applies to nurses, women medical specialists and similar employees of the Army Medical Department who received special appointments during World War II.[36] It identifies various periods of service which are creditable for retirement eligibility and for computing retirement pay. It applies only to service completed before January 1, 1949. The section is probably obsolete because all personnel with service prior to 1949 should now be retired. This section would repeal 10 U.S.C. 3683. (*Section 112* contains a savings provision in the event that there may be persons still on active duty.)

*Section 102(b)* pertains to 10 U.S.C. 3963 which also applies to nurses, women medical specialists and similar employees of the Army Medical Department who received special appointments during World War II. [37] It provides that personnel in these categories who served before July 1, 1946, in a higher active duty grade can be retired at that grade. Again, the section is probably obsolete

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[35] Nineteen laws identified by the Department of Justice would not be revised or eliminated by S. 501. These are: 10 U.S.C. §§ 8549, 6015, 5896-99, 6403, 2102, 50 U.S.C. App. §§ 453 et seq. (military); 22 U.S.C. §§ 2152(k), 2225 (foreign relations); 29 U.S.C. § 12, 36 U.S.C. § 671, 10 U.S.C. § 8848(b) (affirmative action); 42 U.S.C. § 411(a)(5)(A), 26 U.S.C. § 1402(a)(5)(A) (Social Security).

[36] Women in these classes of service received appointments to higher grades during World War II, but were then demoted after the war was over. Sections 3683, 3963, 8683 and 8963 of Title 10 were necessary to restore benefits lost as a result of the demotion.

[37] *See*, note 36, *supra*.

as those with service prior to 1946 should now be retired. This section would repeal 10 U.S.C. 3963. (*Section 112* contains a savings provision in the event that there may be persons still on active duty.)

*Section 102(c)* would amend 10 U.S.C. 4309 which allows "members of armed forces and able-bodied males capable of bearing arms" to use rifle ranges operated by the Secretary of the Army. The amendment would change "males" to "persons."

*Section 102(d)* would amend 10 U.S.C. 4313(a) which provides meal expenses of "$1.50 per man" at rifle matches in which they are participating. The amendment would replace "man" with "competitor".

*Section 102(e)* would amend 10 U.S.C. 4651 which allows the Secretary of the Army to provide equipment to any school that does not have an ROTC unit, but does have a course in military training and at least "100 physically fit male students." The amendment would delete "male."

*Section 102(f)* would amend 10 U.S.C. 4712(d) which contains the Army's priority list for the disposition of effects of deceased military personnel by summary court martial. The list gives a preference to a "son" over a "daughter," a "father" over a "mother," and a "brother" over a "sister." The amendment would give equal preference to any "child" of the deceased, "parent" of the deceased, or "brother or sister" of the deceased.

*Section 102(g)* would amend 10 U.S.C. 4713(a)(2) which contains the Army's priority list for the disposition of effects of certain deceased military personnel which have been held for three years after death, again giving preferences to male family members. The amendment would eliminate the gender-based preferences. (See *Section 102 (f) supra.*)

*Section 103(a)* would amend 10 U.S.C. 6160(a) which provides that a disabled enlisted "man" with ten (10) or more years of service may apply for aid. The amendment would replace "man" with "member."

*Section 103(b)* would amend 10 U.S.C. 6964(e) which provides that a midshipman sentenced to imprisonment for hazing may not be confined with "men who have been convicted of crimes or misdemeanors." The amendment would substitute "persons" for "men."

*Section 103(c)* would amend 10 U.S.C. 7601 (a) and (b), which lists, among others, the "widows" but not the "widowers" of members of the Navy as persons who may use commissaries. The amendment would replace "widows" with "surviving spouses." The amendment would also substitute "the Secretary" for the words "he" or "him" when referring to the Secretary of the Navy.

*Section 104(a)* pertains to 10 U.S.C. 8683 which applies to nurses, women medical specialists and similar employees of the Air Force Medical Department, who received special appointments during World War II.[38] It identifies various periods of service which are creditable for retirement eligibility and for computing retirement pay. It applies only to service completed before January 1, 1949. The section is probably obsolete because all personnel with service

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[38] *See*, note 36, *supra*.

prior to 1949 should now be retired. This section would repeal 10 U.S.C. 8683. (*Section 112* contains a savings provision in the event that there might still be persons on active duty.)

*Section 104(b)* pertains to 10 U.S.C. 8963 which applies to nurses, woman medical specialists, and similar employees of the Air Force Medical Department, who received special appointments during World War II.[39] It provides that personnel in these categories who served before July 1, 1946, in a higher active duty grade can be retired in that grade. The section is probably obsolete as anyone with service prior to 1946 should now be retired. This section would repeal 10 U.S.C. 8963. (*Section 112* contains a savings provision in the event there may still be persons on active duty.)

*Section 104(c)* would amend 10 U.S.C. 9651 which allows the Secretary of the Air Force to provide equipment to any school that does not have an ROTC unit but which does have a course in military training and at least "100 physically fit male students." The amendment would delete "male."

*Section 104(d)* would amend 10 U.S.C. 9712(d) which contains the Air Force's priority list for the disposition of the effects of deceased military personnel by summary court martial, giving preferences to male family members. The amendment would eliminate the gender-based preferences. (See *section 102 (f), supra.*)

*Section 104(e)* would amend 10 U.S.C. 9713(a)(2) which contains the Air Force's priority list for the disposition of the effects of deceased military personnel by the Soldiers' Home, again, giving male family members preference. The amendment would eliminate the gender-based preferences. (See *section 102 (f), supra.*)

*Section 105(a)* would amend 10 U.S.C. 311(a) which provides for a militia consisting of "all able-bodied males at least 17 years of age and . . . under 45 years of age who are . . . citizens of the United States who are commissioned officers of the National Guard." The amendment would eliminate the separate provision for females and would substitute "persons" for "males".

*Section 105(b)* would amend 10 U.S.C. 772(c) which allows retired officers of the Army, Air Force, Navy, and Marine Corps to wear their retired grade uniforms, but restricts a retired officer of the Navy Nurse Corps to wear her retired-grade uniform only under conditions prescribed by the Secretary of the Navy. The amendment would eliminate the separate provision for Navy Nurse Corps officers and also substitute "the retired officer's" for "his" when referring to a retired officer.

*Section 105(c)(1)* would amend 10 U.S.C. 1431(b) which describes the conditions in which a member of the Armed Forces may make an election for "his" annuity. It also provides that only "widows" of members of the Armed Forces may benefit by a provision that permits members of the Armed Forces to elect reduced retirement pay to provide for a survivor's annuity. The amendment would replace "his widow" with "the elector's surviving spouse" and correct other gender-based terminology such as replacing "he" with "the member", etc.

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[39] *See, note 36, supra.*

*Section 105(c)(2)* would amend 10 U.S.C. 1431(c) which describes the conditions in which an elector may be granted "his" retainer pay. The amendment would replace "his" and "he" with "the elector's" and "the elector" respectively.

*Section 106* pertains to P.L. 78-350 (50 U.S.C. App. 1591-1598), a 1944 law which provided for temporary appointments for Army Nurse Corp members, women medical specialists or similar employees of the Army Medical Department during World War II. It contains separate standards for these classes of female personnel in such areas as retirement grade and pay, computation of length of service, uniform allowance, rank, pay, and travel allowances. The law was passed only for World War II and is now, therefore, obsolete. This section would repeal P.L. 78-350. (*Section 112* contains a savings provision to clarify that the repeal is not intended to affect the present status of women who received these appointments.)

*Section 107(a)* would amend 50 U.S.C. App. 530 (1) and (2), which prohibit the eviction of the "wife," children, or other dependents of a person in the military service and which provide for allotment of the person's pay to discharge the rent of premises occupied by the "wife," children or other dependents. The amendment would replace "wife" with "spouse" in each instance.

*Section 107(b)* would amend 50 U.S.C. App. 563 (1) and (2) which entitles a person's "widow" and "his" minor children to a patent on a homestead plot of land in case of the person's death or incapacity resulting during or resulting from service. The amendment would substitute "his widow, if married, or in the case of her death or marriage, his minor children" with "the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children."

*Section 107(c)* would amend 50 U.S.C. App. 564 which lists the conditions for a suspension of the requirement to make improvement expenditures by an "entryman" on "his" desertland entry. The amendment would replace "entryman" with "enterer" and correct other gender-based terminology.

*Section 108* would amend 24 U.S.C. 52 which allows the residents of the Soldiers' Home to have their pensions paid to a "child, wife, or parent living." The amendment would replace "wife" with "spouse."

*Section 109(a)* would amend P.L. 84-501, ch. 227, 70 Stat. 124 (See, 42 U.S.C. 213), which provides for burial in a national cemetery of the remains of the "wife, widow or minor child" of certain officers of the Public Health Service, and the discretionary removal of such remains if, upon the officer's death, the remains are not buried in the same or of an adjoining gravesite. The amendment would provide for the burial of the "spouse, surviving spouse or minor child" of such an officer, and the discretionary removal of the remains if the officer is buried elsewhere.

*Section 109(b)* would amend 37 U.S.C. 551(1)(A) which provides for payments to be made to the dependents of missing members of the Armed Forces. The definition of dependent includes "wife" but not husband. The amendment would change "wife" to "spouse".

*Section 110(a)* would amend 46 U.S.C. 561 which provides for "apprenticing boys" to the sea service. The amendment would replace "boys" with "youths" and correct other gender-based terminology

such as substituting "him" with "such official" when referring to a Coast Guard official.

*Section 110(b)* would amend 46 U.S.C. 599(b) which allows for the allotment of a portion of a sailor's wages to "his grandparents, wife, sister, or children." The amendment would change "wife, sister" to "spouse, sibling".

*Section 110(c)* would amend 46 U.S.C. 599(c) which stipulates how the allotment of a sailor's wages are to be handled "during his absence". The amendment would change "during his absence" to "during his or her absence".

*Section 110(d)* would amend 46 U.S.C. 627 which provides for the distribution of the effects of a merchant marine to "his widow or children". The amendment would change "his widow or children" to "the surviving spouse or children of such person" and correct other gender-based terminology.

*Section 111* contains technical and conforming amendments for the amendments made by Title I.

*Section 112* contains the savings provisions for those repealed provisions of the Code which apply to nurses, women medical specialists, and similar personnel who received special appointments during World War II. (See *sections 102 (a), (b), 104 (a), (b), and 106, supra.*)

## Title II.—Elimination of Gender-Based Distinctions Under the Social Security Act and the Railroad Retirement Act

*Section 201(a)* would amend Section 213(a) of the Social Security Act (42 U.S.C. 413(a)) which, in defining a "quarter of coverage," includes a savings provision for men who attained age 65 and women who attained age 62 between January 1955 and July 1957. The amendment would delete these references and instead refer to individuals who attained "retirement age" during that period.

*Section 201(b)* would amend Section 215(f)(5) of the Social Security Act (42 U.S.C. 415(f)(5)) which provides for the recomputation of benefits for the survivor of a man who dies between ages 62 and 65. The amendment would replace "man" with "individual."

*Section 201(c)* would amend 42 U.S.C. 602(a)(19)(G)(iv) which requires a State plan for aid and services to needy families with children to allow the "mother" to choose among available child care services when more than one type is available. The amendment would replace "mother" with "such individual," referring to an individual accepting employment pursuant to a work incentive program.

*Section 201(d)* would amend 42 U.S.C. 1307(b) which provides penalties for obtaining information from an individual's Social Security records by a false representation that one is either the individual or any of various other persons, including the individual's divorced "wife" by not including the individual's divorced husband. The amendment would replace "wife" with "spouse."

*Section 201(e)* provides that the effective date of the amendments to the Social Security Act will be on the date of enactment and that the amendments will apply only to monthly benefits payable for months beginning after the date of enactment.

*Sections 202 (a)* and *(b)* [40] would make a number of amendments to the Railroad Retirement Act of 1974, 45 U.S.C. 231a *et seq.*, which currently provides retirement benefits to the spouses and surviving spouses of retired employees under a variety of circumstances, but distinguishes between husbands and wives in several respects.

First, the spouse generally is not eligible for benefits unless he or she is also of retirement age, but an exception is made in 45 U.S.C. 231a(c)(1)(ii)(C) for a wife with dependent children, and a similar exception is made in 45 U.S.C. 231a(d)(1)(ii) for a widow with dependent children. *Sections 202(a)(1)* and *202(b)(2)* of the bill would extend these exceptions, respectively, to a retired employee's husband or widower with dependent children.

Second, under 45 U.S.C. 231a(c)(3)(ii) and 231a(d)(1)(i), respectively, the husband or widower of a retired employee is not eligible for benefits unless he is or was dependent on his wife for at least half of his support. *Sections 202(a)(3)(B)* and *202(b)(1)* would eliminate these dependency requirements.

Third, a divorced wife is eligible for benefits under 45 U.S.C. 231a(c)(4)(iii), while a divorced husband is not. *Section 202(b)(4)* would extend eligibility for these benefits to divorced husbands.

Finally, 45 U.S.C. 231a(d)(1)(v) provides benefits to the widow, surviving divorced wife, or surviving divorced mother of a deceased employee under certain circumstances. *Section 202(b)(3)* would extend eligibility for these benefits to the widower, surviving divorced husband, or surviving divorced father of a deceased employee under equivalent circumstances.

*Sections 202(c)–(r)* of the bill would make technical and conforming amendments to various other sections of the Railroad Retirement Act.

*Section 203* would amend 42 U.S.C. 633(a), which establishes priorities for testing and counseling of work incentive program participants, and gives priority to "unemployed fathers" over mothers and pregnant women. The Act would amend 42 U.S.C. 633(a) to create a uniform category of preference to "unemployed parents." The priorities in Section 433(a) are a vestige of the Aid of Dependent Children Unemployed Fathers Program under 42 U.S.C. 607. Section 607 provided benefits to families whose dependent children were being deprived of parental support because of the father's unemployment, but did not provide such benefits when the mother was unemployed. The gender-based distinction was held unconstitutional in *Califano* v. *Westcott*, 443 U.S. 76 (1979).

## Title III—Miscellaneous Amendments

### Amendments to Title 5, United States Code

*Section 301(a)* would amend 5 U.S.C. 2108(3) (F) and (G) which among other things, gives mothers, but not fathers, of a deceased or disabled veteran an eligibility preference for purposes of Federal employment. The amendment would permit both parents to be en-

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[40] The discriminatory provisions found in the Railroad Retirement Act were patterned after the provisions of the Social Security Act dealing with the same type of benefits, and would be amended in accordance with the changes already made to the Social Security Act by P.L. 98-21.

titled to the preference if they meet the criteria specified in the statute.

*Section 301(b)* would amend 5 U.S.C. 5561(3)(A) which defines dependents for purposes of determining payments to missing Federal employees as including the "wife" but not the husband. The amendment would replace "wife" with "spouse."

*Section 301(c)* would amend 5 U.S.C. 8332(j)(1). Section 8332 deals generally with creditable service for the purpose of determining Federal annuities. Subsection (j)(1) provides that service as a volunteer under certain government programs will be excluded from determining the period of service on which an annuity is payable to the individual, "his widow," or child. The amendment would replace "widow" with "surviving spouse."

IMMIGRATION

*Section 302(a)* would amend 8 U.S.C. 1353 which authorizes payment of the transportation expenses of the "wives" and dependent children of employees of INS performing duties in foreign countries. The amendment would replace "wives" with "spouses."

*Section 302(b)* would amend 8 U.S.C. 1451 which provides that the revocation of a person's citizenship or naturalization shall not affect any right or privilege of the person's "wife" or minor child to which they would have been otherwise entitled if the revocation had not occurred.[41] The amendment would change "wife" to "spouse."

*Section 302(c)* would amend 8 U.S.C. 1452 which provides procedures to procure certificates of citizenship for persons who derived U.S. citizenship through the naturalization of a parent or "husband." The amendment would change "husband" to "spouse."

*Section 302(d)* would amend 8 U.S.C. 1489 which provides that notwithstanding any treaty or convention to the contrary, no "woman" is to lose U.S. nationality because of marriage to an alien or through residence abroad following such a marriage. The amendment would change "woman" to "person."

*Section 302(e)* would amend 8 U.S.C. 1557 which prohibits the transportation in foreign commerce of "women and girls" for the purposes of prostitution and debauchery. The amendment would replace "women and girls" with "adults and youth."

*Section 302(f)* would amend 22 U.S.C. 214 which excuses the payment of passport fees for a "widow" of a deceased member of the Armed Forces who is traveling abroad to visit the grave of the deceased. The amendment would change "widow" to "surviving spouse."

*Section 302(g)* would amend 8 U.S.C. 1432(a)(3) which provides automatic citizenship to a child born outside the United States to non-citizen parents upon "the naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been es-

[41] 8 U.S.C. 1451, 1452 and 1489 are "protective" in nature. That is, they were designed to protect women from laws existing in the early part of the century in this country, and the customs and conventions of foreign countries, making the legal status of a woman dependent on that of her husband.

tablished by legitimation." The amendment would delete "the naturalization of the mother."

WALSH-HEALEY

*Section 303* would amend 41 U.S.C. 35 and 36 which establish minimum age requirements for employment by a government contractor. Section 35 requires that certain government contracts include a representation that underage persons will not be employed in their performance, while 41 U.S.C. 36 establishes penalties for the breach of such a contract provision. The minimum age for both provisons is set at 16 for males and 18 for females. The amendment would provide for a minimum age of 16 for members of both sexes. (The Department of Labor has already so amended its regulations.)

AGRICULTURE

*Section 304* would amend 42 U.S.C. 1773(c) which concerns the priorities to be honored the selection of schools for participation in the school breakfast program. One of the factors listed is a special need to improve the dietary practices of children of working "mothers." The amendment would change "mothers" to "households in which both parents work or from single-parent households in which the parent works."

INDIAN AFFAIRS

*Section 305* would amend 25 U.S.C. 13 which authorizes the Bureau of Indian Affairs to direct, supervise and expend monies for the benefit, care, and assistance of Indians for a number of specified purposes, including the employment of "field matrons." This particular provision is obsolete. The amendment would delete "field matrons."

*Section 306* would repeal 25 U.S.C. 137 which was enacted in 1875 and authorizes an agent distributing supplies on an Indian reservation to require "able-bodied Indian males" to perform certain services for the benefit of a tribe.

*Section 307* would amend three code provisions relating to marriages between white men and Indian women:

First, 25 U.S.C. 181 provides that a white man may not acquire a right to tribal property by marrying an Indian woman. The amendment would provide that no "non-Indian" may acquire a right to tribal property by marrying an "Indian."[42]

Second, 25 U.S.C. 182 provides that an Indian woman who marries a U.S. citizen also becomes a U.S. citizen, but does not lose any tribal property rights. Section 182 was made obsolete by the Indian Citizenship Act, and would be repealed.

Third, 25 U.S.C. 183 specifies the type of evidence which is required to prove a marriage between a "white man" and an "Indian woman." The amendment would change "white man" to "non-Indian" and delete "woman."

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[42] 25 U.S.C. 181-184 were all designed to protect Indian women from tribal customs giving the non-Indian spouse all her tribal property rights, and divesting the children of such marriages of tribal property rights.

*Section 308(1)* would amend 25 U.S.C. 184 which provides that the children of a marriage solemnized prior to June 7, 1897, between a "white man" and an "Indian woman" shall have the same rights and privileges as other members of the "mother's" tribe. The amendment would provide that the children of marriages between a "non-Indian" and an "Indian" will have the rights and privileges of the "parent's" tribe.

*Section 308(2)* would amend 25 U.S.C. 274 which authorizes the Commissioner of Indian Affairs to employ "Indian girls as assistant matrons" and "Indian boys as farmers and industrial teachers." The amendment would allow the Commissioner to employ Indian "youths" as "dormitory aides" and "as farmers and industrial teachers."

*Section 309(a)* would amend 25 U.S.C. 933(c), which, on distribution of the assets of the Catawba tribe, excludes from the appraisal of tribal assets the value of any improvements placed on tribal land previously assigned to a tribe member and selected by the assignee, his "wife" or any of his children as the member's share of the tribal assets. The amendment would substitute "spouse" for "wife." (The statute is not obsolete, as it is currently involved in land claim litigation.)

*Section 309(b)* would amend 25 U.S.C. 973(c) which, on distribution of the tribe's assets, allows a tribe member to purchase tribal land used for homesite purposes for its former market value, excluding any improvements or repairs made by the member or the member's "wife," children, or ancestors. The amendment would replace "wife" with "spouse."

*Section 310* would amend 25 U.S.C. 371 which provides that illegitimate Indian children are the legitimate issue of their father for the purpose of determining descent of land. The amendment would provide that illegitimate children are the legitimate issue of both parents for such purposes.

TITLE 18

*Section 311(a)* would amend 18 U.S.C. 245(b), a criminal provision, which prohibits interference with certain civil rights by force or threat of force. The statute currently applies only to civil rights violations based on a person's "race, color, religion or national origin." The amendment would add "sex" as a protected category, but would also include a provision clarifying that the change is not intended to expand substantive Federal protections against sex discrimination. (Not all Federal civil rights laws prohibit sex discrimination. For instance, Title II, the public accommodations title of the 1964 Civil Rights Act, does not include sex discrimination as a prohibited activity.) [43]

*Section 311(b)* would amend 18 U.S.C. 1153 which makes a violation of Section 2032 (below) on Indian territory a Federal offense. The gender-based language would be amended in accordance with the amendments made to 18 U.S.C. 2032.

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[43] The term "sex" is used as synonymous with gender and does not mean sexual orientation or sexual preference.

*Section 311(c)* would amend 18 U.S.C. 2032 which provides that whoever, within the special maritime and territorial jurisdiction of the United States "carnally knows any female, not his wife, who has not attained the age of sixteen years" shall, for a first offense, be imprisoned not more than fifteen years, and for a subsequent offense, be imprisoned not more than thirty years. The amendment would replace "female" with "person" and "wife" with "spouse."

*Section 311(d)* would repeal the following code sections:

18 U.S.C. 2198, which makes it an offense to "seduce" a female passenger on an American vessel;

18 U.S.C. 3286 which requires that an indictment or information charging a violation of Section 2198 must be filed within one year after the vessel arrives at port; and

18 U.S.C. 2424, an obsolete provision of the Mann Act, which pertains to the filing of factual statements with the Immigration and Naturalization Service concerning "women and girls" who have been kept, maintained, controlled, etc., in this country for the purpose of prostitution or other immoral purposes.

*Section 311(e)* would amend 18 U.S.C. 2421, a provision of the Mann Act, which prohibits the transportation in interstate or foreign commerce of any "woman or girl" for prostitution, debauchery, or other immoral purposes. The amendment would replace "woman or girl" with "person."

*Sections 311(f)* would amend 18 U.S.C 2422, a related provision of the Mann Act, which prohibits coercing or enticing any "woman or girl" to travel in interstate or foreign commerce for immoral purposes. The amendment would replace "woman or girl" with "person."

## PUBLIC LANDS [44]

*Sections 312 and 313* would amend 43 U.S.C. 161 and 162 which allow a citizen or a person intending to become a citizen, who has reached the age of 21, or who is "the head of a family" to be entitled to enter unappropriated public lands. Under State statutes, Federal regulations and the common law, the "head of a family" customarily refers to the husband or the father. The amendment would clarify that either spouse or parent is entitled to entry.

*Section 314* would amend 43 U.S.C 164 which sets forth the rules for the issuance of certificates or patents. The provisions applicable when the enterer dies refer only to the "widow." The amendment would replace "widow" with "surviving spouse."

*Section 315* would amend 43 U.S.C. 166 which provides that an unmarried female settler does not forfeit her rights to enter upon marriage so long as she does not abandon her residence. It also provides, however, that she forfeits her rights if the man she marries claims a separate tract under the homestead laws. The amendment would eliminate the provisions requiring the woman to forfeit her rights if her husband claims a separate tract, and extend to both sexes the requirement that they must continue to reside on the tract if they wish to make entry.

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[44] The Homesteading provisions amended by the Act now only apply to the State of Alaska, and will no longer be effective after 1986.

*Section 316* would amend 43 U.S.C 167 which provides that the marriage of two homesteaders does not impair either's right to a patent, but gives the husband the right to choose the family's domicile. The amendment would require that both husband and wife together elect the tract on which they wish to live.

*Section 317* would amend 43 U.S.C. 168 which provides that the marriage of a female enterer to an alien does not impair the female's entitlement to a certificate or patent. The provision was designed to protect women from the once prevalent legal doctrine that if a female citizen marries an alien she forfeits her citizenship. Since this legal doctrine no longer applies, 43 U.S.C. 168 is obsolete and would be repealed.

*Section 318* would amend 43 U.S.C. 170 which provides certain protections to the "wives" of enterers who are deserted. The amendment would replace "wives" with "spouses."

*Sections 319–323* would amend 43 U.S.C. 240, 243a, 255, 271, 272, and 278 which permit service personnel and their families to count service time toward homestead entry requirements. All sections assume that service personnel are male, referring only to the "wives" and "widows" of service personnel. These provisions would be amended by replacing "wife" with "spouse" and "widow" with "surviving spouse," and correcting gender-based terminology to clarify that service personnel includes both sexes.

MISCELLANEOUS

*Section 324* would repeal 48 U.S.C. 1461 which provides that polygamists, bigamists, persons cohabiting with more than one woman, and women cohabiting with any such individuals, may not vote or hold office in a U.S. Territory.

*Section 325* would amend 28 U.S.C. 604(a)(7) which allows the Director of the Administrative Office of the U.S. Courts to regulate and pay annuities to "widows" of judges. P.L. 94–544 extended benefits to both the widows and widowers of judges on a gender-neutral basis, but failed to correct Section 604. The amendment would replace "widow" with "surviving spouse."

*Section 326* would amend 42 U.S.C. 1652 which allows a non-resident alien employed by the United States in any of several capacities, e.g., at a military, air or naval base, or on certain public works, disability or death benefits in the same amount allowed a resident, but limits the dependents entitled to such compensation to the surviving "wife" and children. The amendment would replace "wife" with "spouse."

*Section 327(a)* would amend 42 U.S.C. 1986 which creates a cause of action for failure to prevent the commission of a wrongful act furthering a conspiracy to deprive a person of his civil rights. If death results from the conspiracy, the deceased's legal representative can recover damages for the benefit of the "widow." The amendment would replace "widow" with "surviving spouse."

*Section 327(b)* would amend 33 U.S.C. 857–4 which extends commissary privileges to the "widows" but not the "widowers" of members of the National Oceanic and Atmospheric Administration Uniformed Services. The amendment would replace "widow" with "surviving spouse."

*Section 327(c)* would amend 12 U.S.C. 1715m, a provision of the National Housing Act, which states that when a serviceman who has been issued a housing certificate dies while on active duty in the Armed Forces, the Coast Guard, or the National Oceanic and Atmospheric Administration, leaving a "surviving widow" as owner of the property, the period of ownership is extended for 2 years from the date of death, or the date of the "widow" disposes of the property, whichever is first. The amendment would replace "widow" with "surviving spouse."

*Section 327(d)* would amend 15 U.S.C. 1052(c) which provides that no trademark may be registered if it includes the name, signature, or portrait of a deceased President of the United States during the life time of the "widow" unless she provides written consent. The amendment would replace "widow" with "surviving spouse."

*Sections 327 (e), (f), and (g)* would amend 48 U.S.C. 1413, 1415, and 1418, respectively, which stipulate the rights of "widows" of discoverers of the Guano Islands. Specifically, 45 U.S.C. 1413 protects "widows" rights if the discoverer dies before perfecting proof of discovery; 45 U.S.C. 1415 prohibits a discoverer or "his widow" from exporting guano, except for the use of U.S. citizens or residents; 45 U.S.C. 1418 authorizes the President to employ the Armed Forces to protect the rights of a discoverer or "his widow." The amendment would replace "widow" with "surviving spouse" in each instance, and correct gender-based terminology.

FEDERAL MINE SAFETY AND HEALTH ACT

*Sections 328(a)–(g)* of the bill would make a number of amendments to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* The Act currently provides black lung benefits to a disabled miner or, upon his death, to his widow or children, and assumes throughout its provisions for filing claims and determining their validity that the miner is male. See, *e.g.*, 30 U.S.C. 832(d) (authorizing the autopsy of a deceased miner with the consent of his widow); 30 U.S.C. 902(a) (including a miner's wife, but not a miner's husband, in the definition of a "dependent"); 30 U.S.C. 923(b) (including a miner's wife's affidavit as relevant evidence in establishing a claim). *Section 328(d)* of the bill would amend 30 U.S.C. 922 to extend black lung benefits to a widower as well as a widow, while *subsections (a)–(c)* and *(e)–(g)* of *Section 328* of the bill would make various conforming amendments, and other changes clarifying that the provisions apply to disabled miners without regard to sex, to 30 U.S.C. 843, 902, 921, 923, 924 and 931, respectively. In addition, Section 328(d)(1)(M) of the bill would amend 30 U.S.C. 922(a)(5) to provide the same conditions for the receipt of black lung benefits by a miner's sister as are currently provided for the receipt of such benefits by a brother.

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

*Section 329* would amend three subsections of 33 U.S.C. 909 which provides various death benefits to the survivors of a deceased employee entitled to compensation. These include certain benefits to a "widow or dependent husband" (Section 909(c)), and which provides the same benefits for non-resident aliens as for resi-

dents, but limits the dependents in a foreign country entitled to compensation to the surviving "wife" and children (Sec. 909(g)). The amendment would eliminate the dependency requirement for widowers in subsection (b) and (c) and would substitute "spouse" for "wife" in subsection (g).

CONSERVATION

*Section 330* would amend 16 U.S.C. 754 which provides that commutations of rations "not to exceed $1 per man per day" may be paid officers and crews of vessels of the Fish and Wildlife Service. The amendment would delete "man."

MISCELLANEOUS

*Section 331* would amend 1 U.S.C. 1 which provides that "In determining the meaning of any Act of Congress, unless the context indicates otherwise, words importing the masculine gender include the feminine as well." The amendment would amend 1 U.S.C. 1 so that words importing either gender are construed to include the other gender as well.

*Section 332* would amend 50 U.S.C. 2004 which provides for detention benefits to be paid to a civilian internee or, in the event of the internee's death, to a "widow or dependent husband." The amendment would substitute "widower" for "dependent husband."

*Section 333* would amend P.L. 85-745, subsection (e), 72 Stat. § 838 (August 25, 1958) (*see* 3 U.S.C. § 102 Note) which provides for a monetary allowance to be paid to the widow of a former President of the United States. The amendment would substitute "surviving spouse" for "widow."

EFFECTIVE DATE

*Section 401* states that except where otherwise provided, the effective date of the legislation shall be on the date of enactment.

## VIII. BUDGET IMPACT

In accordance with paragraph 11(a), rule XXVI of the Standing Rules of the Senate, the Committee offers the following report of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, November 13, 1985.*

Hon. STROM THURMOND,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 86, the Sex Discrimination in the United States Code Reform Act of 1985, as ordered reported by the Senate Committee on the Judiciary, October 31, 1985. We estimate that enactement of the bill would result in no significant cost to the federal government, and in no cost to state or local governments.

S. 86 would eliminate gender-based distinctions from a variety of federal laws. Many of the provisions codify current practices or

change aspects of law that do not affect spending levels. One provision, section 202(a) of the bill, would create additional entitlement benefits for men and their dependents under the Railroad Retirement program. The number of affected beneficiaries is likely to be very small, and the potential costs of this provision are not expected to be significant.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

## IX. REGULATORY IMPACT EVALUATION

Pursuant to paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact as defined by that subsection will result from the enactment of S. 501.

## X. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law proposed to be made by S. 86 are shown as follows: Existing law to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman.

## UNITED STATES CODE

# TITLE 1: GENERAL PROVISIONS

### CHAPTER 1—RULES OF CONSTRUCTION

**§ 1. Words denoting number, gender, and so forth**

In determining the meaning of any Act of Congress, unless the context indicate otherwise—

words importing the singular include and apply to several persons, parties, or things;

words importing the plural include the singular;

[words importing the masculine gender include the feminine as well;]

*words importing the masculine or feminine gender include the other as well;*

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# TITLE 3: THE PRESIDENT

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### CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

Sec.

101. Commencement of term of office.

102. Compensation of the President.

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**§ 102. Compensation of the President**

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"(e) The [widow] *surviving spouse* of each former President shall be entitled to receive from the United States a monetary allowance at a rate of $20,000 per annum, payable monthly by the Secretary of the Treasury, if such [widow] *surviving spouse* shall waive the right to each other annuity or pension to which *he or* she is entitled under any other Act of Congress. The monetary allowance of such [widow] *surviving spouse*—

"(1) commences on the day after the former President dies;

"(2) terminates on the last day of the month before such [widow] *surviving spouse*—

"(A) dies; or

"(B) remarries before becoming 60 years of age; and

"(3) is not payable for any period during which such [widow] *surviving spouse* holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.

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# TITLE 5: GOVERNMENT ORGANIZATION AND EMPLOYEES

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## CHAPTER 21—DEFINITIONS

Sec.

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2108. Veteran; disabled veteran; preference eligible.
2109. Air traffic controller.

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**§ 2108. Veteran; disabled veteran; preference eligible**

For the purpose of this title—

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(3) "preference eligible" means—

* * * * * * *

[(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

[(i) her husband is totally and permanently disabled;

[(ii) she is widowed, divorced, or separated from the father and has not remarried; or

[(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and]

[(G) the mother of a service-connected permanently and totally disabled veteran, if—

[(i) her husband is totally and permanently disabled;

[(ii) she is widowed, divorced, or separated from the father and has not remarried; or

[(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed;]

*(F) any parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—*

*(i) such parent's spouse is totally and permanently disabled;*

*(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or*

*(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed; and*

*(G) any parent of a service-connected permanently and totally disabled veteran, if—*

*(i) such parent's spouse is totally and permanently disabled;*

*(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or*

*(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed;*

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## CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

Sec
5561. Definitions.

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### § 5561. Definitions

For the purpose of this subchapter—

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(3) "dependent" means—

(A) a [wife] *spouse;*

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## CHAPTER 83—RETIREMENT

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

Sec.
8331 Definitions.
8332. Creditable Service.

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### § 8332. Creditable service

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(j)(1) Notwithstanding any other provision of this section, military service, except military service covered by military leave with pay from a civilian position, performed by an individual after December 1956, the period of an individual's services as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, and the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22, shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to the individual or to his **[**widow**]** *surviving spouse* or child is based, if the individual, **[**widow**]** *surviving spouse* or child is entitled, or would on proper application be entitled, at the time of that determination, to monthly old-age or survivors benefits under section 402 of title 42 based on the individual's wages and self-employment income. If the military service or service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964 or as a volunteer or volunteer leader under chapter 34 of title 22 is not excluded by the preceding sentence, but on becoming 62 years of age, the individual or **[**widow**]** *surviving spouse* becomes entitled, or would on proper application be entitled, to the described benefits, the Office of Personnel Management shall redetermine the aggregate period of service on which the annuity is based, effective as of the first day of the month in which he or she becomes 62 years of age, so as to exclude that service. The Secretary of Health, Education, and Welfare, on request of the Office, shall inform the Office whether or not the individual, **[**widow**]** *surviving spouse* or child is entitled at any named time to the described benefits. * * *

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# TITLE 8: ALIENS AND NATIONALITY

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## CHAPTER 12—IMMIGRATION AND NATIONALITY

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PART IX.—MISCELLANEOUS

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Sec.
1353. Travel expenses and expense of transporting remains of officers and employees dying outside of United States.

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1432. Children born outside of United States of alien parents; conditions for automatic citizenship.

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SUBCHAPTER III.—NATIONALITY AND NATURALIZATION

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PART II.—NATIONALITY THROUGH NATURALIZATION

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1451. Revocation of naturalization.
(a) Concealment of material evidence; refusal to testify.
(b) Notice to party.
(c) Membership in certain organizations; prima facie evidence.
(d) Foreign residence.
(e) Wife or minor child not affected.
(f) Applicability to citizenship through naturalization of parent or spouse.

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1452. Certificates of citizenship; procedure.

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PART III.—LOSS OF NATIONALITY

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1489. Application of treaties; exceptions.

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**§ 1353. Travel expenses and expense of transporting remains of officers and employees dying outside of United States**

When officers, inspectors, or other employees of the Service are ordered to perform duties in a foreign country, or are transferred from one station to another, in the United States or in a foreign country, or while performing duties in any foreign country become eligible for voluntary retirement and return to the United States, they shall be allowed their traveling expenses in accordance with such regulations as the Attorney General may deem advisable, and they may also be allowed, within the discretion and under written orders of the Attorney General, the expenses incurred for the transfer of their **[**wives**]** *spouses* and dependent children, their household effects and other personal property including the expenses for packing, crating, freight, unpacking, temporary storage, and drayage thereof in accordance with section 73b—1 of Title 5.

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**§ 1432. Children born outside of United States of alien parents; conditions for automatic citizenship**

(a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

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(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or **[**the naturalization of the mother**]** if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

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**§ 1451. Revocation of naturalization—Concealment of material evidence; refusal to testify**

(a) It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefore, to institute proceedings in any court specified in subsection (a) of section 1421 of this title in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided*, That refusal on the part of a naturalized citizen within a period of ten years following [his naturalization] *his or her naturalization* to testify as a witness in any proceeding before a congressional committee concerning [his subversive] *his or her subversive* activities, in a case where such person has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had [his residence] *his or her residence.*

NOTICE TO PARTY

(b) The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answers to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had [his residence] *his or her residence,* such notice shall be given either by personal service [upon him] or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

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FOREIGN RESIDENCE

(d) If a person who shall have been naturalized shall, within five years after such naturalization, return to the country of [his nativity] *his or her nativity,* or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to

reside permanently in the United States at the time of filing [his petition] *his or her petition* for naturalization, * * *

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WIFE OF MINOR CHILD NOT AFFECTED

(e) The revocation and setting aside of the order admitting any person to citizenship and canceling [his certificate] *his or her certificate* of naturalization under the provisions of subsection (a) of section 338 of the Nationality Act of 1940 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or been available to a [wife] *spouse* or minor child of the naturalized person had such naturalization not been revoked: *Provided*, That this subsection shall not apply in any case in which the revocation and setting aside of the order was the result of actual fraud.

APPLICABILITY TO CITIZENSHIP THROUGH NATURALIZATION OF PARENT OR SPOUSE

(f) Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose [his citizenship] *his or her citizenship* and right or privilege of citizenship which [he may] *he or she may* have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsections (c) or (d) of this section, or under the provisions of section 1440(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose [his citizenship] *his or her citizenship* and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

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**§ 1452. Certificates of citizenship; procedure**

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a [husband] *spouse*, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, * * *

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**§ 1489. Application of treaties; exceptions**

Nothing in this subchapter shall be applied in contravention of the provisions of any treaty or convention to which the United States is a party and which has been ratified by the Senate upon the effective date of this subchapter: *Provided, however,* That no [woman] *person* who was a national of the United States shall be deemed to have lost *his or* her nationality solely by reason of *his or* her marriage to an alien on or after September 22, 1922, or to an alien racially ineligible to citizenship on or after March 3, 1931, or, in the case of a [woman] *person* who was a United States citizen at birth, through residence abroad following such marriage, notwithstanding the provisions of any existing treaty or convention.

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**CHAPTER 13—IMMIGRATION AND NATURALIZATION SERVICE**

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Sec.

1557. Prevention of transportation in foreign commerce of alien [women and girls] *adults and youths* under international agreement; Commissioner designated as authority to receive and preserve information.

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**§ 1557. Prevention of transportation in foreign commerce of alien [women and girls] *adults and youths* under international agreement; Commissioner designated as authority to receive and preserve information**

For the purpose of regulating and preventing the transportation in foreign commerce of alien [women and girls] *adults and youths* for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement or project of arrangement for the suppression of the white-slave traffic, adopted July 25, 1902, for submission to their respective governments by the delegates of various powers represented at the Paris Conference and confirmed by a formal agreement signed at Paris on May 18, 1904, and adhered to by the United States on June 6, 1908, as shown by the proclamation of the President of the United States dated June 15, 1908, the Commissioner of Immigration and Naturalization is designated as the authority of the United States to receive and centralize information concerning the procuration of alien [women and girls] *adults and youths* with a view to their debauchery, and to exercise supervision over such alien [women and girls,] *adults and youths*, receive their declarations, establish their identity, and ascertain from them who induced them to leave

their native countries, respectively; and it shall be the duty of said Commissioner of Immigration and Naturalization to receive and keep on file in his office the statements and declarations which may be made by such alien [women and girls,] *adults and youths*, and those which are hereinafter required pertaining to such alien [women and girls] *adults and youths* engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in this Act to the persons, respectively, making and filing them.

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# TITLE 10: ARMED FORCES

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## CHAPTER 13—THE MILITIA

Sec.
311. Militia: composition and classes.
312. Militia duty: exemptions.

### § 311. Militia: composition and classes

(a) The militia of the United States consists of all able-bodied [males] *persons* at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States [and of female citizens of the United States who are commissioned officers of the National Guard].

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## CHAPTER 45—THE UNIFORM

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Sec.
772 When wearing by persons not on active duty authorized.

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### § 772. When wearing by persons not on active duty authorized

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(c) A retired officer of the Army, Navy, Air Force, or Marine Corps may bear the title and wear the uniform of [his] *the retired officer's* retired grade. [However, a retired officer of the Navy Nurse Corps may wear the uniform of her retired grade under such conditions as the Secretary of the Navy may prescribe.]

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## CHAPTER 47—UNIFORM CODE OF MILITARY JUSTICE

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SUBCHAPTER X—PUNITIVE ARTICLES

Sec. Art.

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920. 120. Rape and carnal knowledge.

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**§ 920. Art. 120. Rape and carnal knowledge**

[(a) Any person subject to this chapter who commits an act of sexual intercourse with a female not his wife, by force and without her consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

[(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.]

*(a) Any person subject to this chapter who commits an act of sexual intercourse with another person not his or her spouse, by force and without the consent of such other person, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.*

*(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with another person not his or her spouse who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.*

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## CHAPTER 73—ANNUITIES BASED ON RETIRED OR RETAINER PAY

SUBCHAPTER I—RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

Sec.
1431. Election of annuity: members of armed forces.

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SUBCHAPTER II—SURVIVOR BENEFIT PLAN

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1451. Amount of annuity.

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**§ 1431. Election of annuity: members of armed forces**

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(b) To provide an annuity under section 1434 of this title, a person covered by subsection (a) may elect to receive a reduced amount of the retired pay or retainer pay to which [he] *the person* may become entitled as a result of service in [his] *the person's* armed force. Except as otherwise provided in this section, unless it is made before [he] *the person* completes nineteen years of service for which [he] *the person* is entitled to credit in the computation of [his] *the person's* basic pay, the election must be made at least two years before the first day for which retired pay or retainer pay is granted. However, if, because of military operations, a member is assigned to an isolated station or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing nineteen years of that service, [he] *the member* may make the election, to become effective immediately,

within one year after [he] *the member* ceases to be assigned to that station or returns to the jurisdiction of [his] *the member's* armed force, as the case may be. A member to whom retired pay or retainer pay is granted retroactively, and who is otherwise eligible to make an election, may make the election within ninety days after receiving notice that such pay has been granted to [him] *the member*. An election made after August 13, 1968, is not effective if—

(1) the elector dies during the first thirty-day period [he is entitled] *the elector's entitlement* to retired pay as a result of a physical condition which led to [his being granted] *the grant of* retired pay under chapter 61 of title 10 with a disability of 100 per centum under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination of the per centum of [his] *the elector's* disability;

(2) the disability was not the result of injury or disease received in line of duty as a direct result of armed conflict; and

(3) [his widow] *the elector's surviving spouse* or children are entitled to dependency and indemnity compensation under chapter 13 of title 38 based upon [his death] *the elector's death*.

(c) An election may be changed or revoked by the elector before the first day for which retired or retainer pay is granted. Unless it is made on the basis of restored mental competency under section 1433 of this title, or unless it is made before the elector completes nineteen years of service for which [he] *the elector* is entitled to credit in the computation of [his] *the elector's* basic pay (in which case only the latest change or revocation shall be effective), the change or revocation is not effective if it is made less than two years before the first day for which retired or retainer pay is granted. The elector may, however, before the first day for which retired or retainer pay is granted, change or revoke [his] *the elector's* election (provided the change does not increase the amount of the annuity elected) to reflect a change in the marital or dependency status of the member or [his] *the elector's* family that is caused by death, divorce, annulment, remarriage, or acquisition of a child, if such change or revocation of election is made within two years of such change in marital or dependency status.

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**§ 1451. Amount of annuity**

(a)(1) The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

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(2) In the case of a widow *or widower* who has one dependent child, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the mother's *or father's* benefit, if any, to which the widow *or widower* would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(*l*)(1) of

such Act (42 U.S.C. 410(*l*)(1)) and calculated assuming that the person concerned lived to age 65, or (B) an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1).

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## CHAPTER 353—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

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3682. Service credit: officers; service as cadet not counted.
3683. [Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted] *Repealed.*

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### [§ 3683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted

[In computing years of active service, there shall be credited for all purposes, except determination of grade, rank, and right to promotion in the Regular Army, the following service, in addition to any other service that may be credited—

[(1) all active service performed in the Army Nurse Corps as it existed at any time before April 16, 1947;

[(2) all active service performed in the Navy Nurse Corps as it existed at any time before April 16, 1947;

[(3) all active service performed under an appointment under the Act of December 22, 1942, ch. 805, 56 Stat. 1072, or the Act of June 22, 1944, ch. 272, 58 Stat. 324; and

[(4) all active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

[(A) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

[(B) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949.]

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## CHAPTER 369—RETIRED GRADE

Sec.

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3963. [Higher grade for service during certain periods: regular and reserve commissioned officers.] *Repealed.*

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### [§ 3963. Higher grade for service during certain periods: regular and reserve commissioned officers

[Upon retirement, a member of the Regular Army in the Army Nurse Corps or Army Medical Specialist Corps who was

(1) a member of the Army Nurse Corps established by the Act of July 9, 1918, ch. 143 (40 Stat. 879), (2) a female dietitian or physical therapist appointed under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or (3) a female officer appointed under the Act of June 22, 1944, ch. 272 (58 State. 324), is entitled to a retired grade equal to the highest grade or relative rank in which she served on active duty satisfactorily, as determined by the Secretary, after September 8, 1940, and before July 1, 1946.]

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## CHAPTER 401—TRAINING GENERALLY

Sec.

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4309. Rifle ranges: recommendations to Congress; regulations.

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4313. National rifle matches and small-arms school: expenses.

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### § 4309. Rifle ranges: recommendations to Congress; regulations

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(b) All rifle ranges established under subsection (a) and all rifle ranges already constructed, in whole or in part with funds provided by the United States, may be used by members of the armed forces and by all able-bodied **[**males**]** *persons* capable of bearing arms, under regulations prescribed by the authorities controlling those ranges and approved by the Secretary.

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### § 4313. National rifle matches and small-arms school: expenses

(a) Competitors at the National Matches under section 4312 of this title may draw not more than $1.50 a day as a subsistence allowance. If meals are furnished, a sum not to exceed $1.50 per **[**man**]** *competitor* per day may be spent for that purpose while the contest is in progress.

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## CHAPTER 441—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.

4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

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### **[**§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

**[**Under such conditions as he may prescribe, the Secretary of the Army may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is

maintained, but which has a course in military training prescribed by the Secretary and which has at least 100 physically fit male students over 14 years of age.]

***§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.***

*Under such conditions as the Secretary of the Army may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least one hundred physically fit students over fourteen years of age.*

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## CHAPTER 445—INQUESTS; DISPOSITION OF EFFECTS OF DECEASED PERSONS; CAPTURED FLAGS

Sec.

4711. Inquests.
4712. Disposition of effects of deceased persons by summary court-martial.
4713. Disposition of effects of deceased persons by Soldiers' Home.

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### § 4712. Disposition of effects of deceased persons by summary court-martial

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(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

[(1) Surviving spouse or legal representative.
[(2) Son.
[(3) Daughter.
[(4) Father, if he has not abandoned the support of his family.
[(5) Mother.
[(6) Brother.
[(7) Sister.
[(8) Next of kin.
[(9) Beneficiary named in the will of the deceased.]

*(1) The surviving spouse or legal representative.*
*(2) A child of the deceased.*
*(3) A parent of the deceased.*
*(4) A brother or sister of the deceased.*
*(5) The next of kin of the deceased.*
*(6) A beneficiary named in the will of the deceased to receive the property.*

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**§ 4713. Disposition of effects of deceased persons by Soldiers' Home**

(a) The effects of a deceased person that the Department of the Army receives under section 4712(f) of this title shall be delivered to the Soldiers' Home. The Home shall dispose of the effects as follows:

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(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Home shall retain the remaining effects until three years after the death of the deceased, and then, upon establishment of a right thereto to the satisfaction of the Home, it shall deliver them to the living person highest on the following list who can be found:

[(A) Surviving spouse or legal representative.
[(B) Son.
[(C) Daughter.
[(D) Father, if he has not abandoned the support of his family.
[(E) Mother.
[(F) Brother.
[(G) Sister.
[(H) Next of kin.
[(I) Beneficiary named in the will of the deceased.]
*(A) The surviving spouse or legal representative.*
*(B) A child of the deceased.*
*(C) A parent of the deceased.*
*(D) A brother or sister of the deceased.*
*(E) The next of kin of the deceased.*
*(F) A beneficiary named in the will of the deceased to receive the property.*

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**CHAPTER 561—MISCELLANEOUS RIGHTS AND BENEFITS**

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Sec.

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6160. Pension to persons serving ten years.

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**§ 6160. Pension to persons serving ten years**

(a) Every disabled person who has served in the Navy or Marine Corps as an enlisted [man] *member* or petty officer, or both, for ten or more years, and has not been discharged for misconduct, may apply to the Secretary of the Navy for aid.

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**CHAPTER 603—UNITED STATES NAVAL ACADEMY**

Sec.

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6964. Hazing: definition; prohibition.

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**§ 6964. Hazing: definition; prohibition**

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(e) A midshipman who is sentenced to imprisonment for hazing may not be confined with **[**men**]** *persons* who have been convicted of crimes or misdemeanors.

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## CHAPTER 651—SHIPS' STORES AND COMMISSARY STORES

Sec.
7601. Sales: members of naval service and Coast Guard; widows; civilian employees and other persons.

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**§ 7601. Sales: members of naval service and Coast Guard; widows; civilian employees and other persons**

(a) Such stores as the Secretary of the Navy designates may be procured and sold to members of the naval service, members of the Coast Guard, and **[**widows**]** *surviving spouses* of such members.

(b) The Secretary may, by regulation, provide for the procurement and sale of stores designated by **[**him**]** *the Secretary* to such civilian officers and employees of the United States, and such other persons, as **[**he**]** *the Secretary* considers proper—

(1) at military installations outside the United States; and

(2) at military installations inside the United States where **[**he**]** *the Secretary* determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of naval activities.

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## CHAPTER 853—MISCELLANOUS RIGHTS AND BENEFITS

Sec.

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8682. Service credit: officers; service as cadet not counted.
8683. **[**Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted.**]** *Repealed.*

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**[§ 8683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted**

**[**In computing years of active service, there shall be credited for all purposes, except the determination of grade, rank, and right to promotion in the Regular Air Force, the following service, in addition to any other service that may be credited—

**[**(1) all active service performed in the Army Nurse Corps as it existed at any time before April 16, 1947;

[(2) all active service performed in the Navy Nurse Corps as it existed at any time before April 16, 1947;

[(3) all active service performed under an appointment under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or the Act of June 22, 1944, ch. 272 (58 Stat. 324); and

[(4) all active full-time service, except as a student or apprentice, with the Medical Departent of the Army as a civilian employee—

[(A) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

[(B) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 2, 1949, with a view to designation as an Air Force nurse or medical specialist.]

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## CHAPTER 869—RETIRED GRADE

Sec.

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8963. [Higher grade for service during certain periods: regular and reserve commissioned officers.] *Repealed.*

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### [§ 8963. Higher grade for service during certain periods: regular and reserve commissioned officers

[Upon retirement, an Air Force nurse or medical specialist who was (1) a member of the Army Nurse Corps established by the Act of July 9, 1918, ch. 143 (40 Stat. 879), (2) a dietitian or physical therapist appointed in the Army under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or (3) an officer apointed in the Army under the Act of June 22, 1944, ch. 272 (58 Stat. 324), is entitled to a retired grade equal to the highest grade or relative rank in which she served on active duty satisfactorily, as determined by the Secretary, after September 8, 1940, and before July 1, 1946.]

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## CHAPTER 941—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.

9651. Arms, tentage, and equipment: educational institutions not maintaining units of A. F. R. O. T. C.

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### [§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.

[Under such conditions as he may prescribe, the Secretary of the Air Force may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational in-

stitution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 100 physically fit male students over 14 years of age.]

***§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of AFROTC.***

*Under such conditions as the Secretary of the Air Force may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least 100 physically fit students over 14 years of age.*

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## CHAPTER 945—INQUESTS; DISPOSITION OF EFFECTS OF DECEASED PERSONS

Sec.

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9712. Disposition of effects of deceased persons by summary court-martial.
9713. Disposition of effects of deceased persons by Soldiers' Home.

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### § 9712. Disposition of effects of deceased persons by summary court-martial

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(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

[(1) Surviving spouse or legal representative.
[(2) Son.
[(3) Daughter.
[(4) Father, if he has not abandoned the support of his family.
[(5) Mother.
[(6) Brother.
[(7) Sister.
[(8) Next of kin.
[(9) Beneficiary named in the will of the deceased.]

*(1) The surviving spouse or legal representative.*
*(2) A child of the deceased.*
*(3) A parent of the deceased.*
*(4) A brother or sister of the deceased.*
*(5) The next of kin of the deceased.*
*(6) A beneficiary named in the will of the deceased to receive the property.*

**§ 9713. Disposition of effects of deceased persons by Soldiers' Home**

(a) The effects of a deceased person that the Department of the Air Force receives under section 9712(f) of this title shall be delivered to the Soldiers' Home. The Home shall dispose of the effects as follows:

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(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Home shall retain the remaining effects until three years after the death of the deceased, and then, upon establishment of a right thereto to the satisfaction of the Home, it shall deliver them to the living person highest on the following list who can be found:

[(A) Surviving spouse or legal representative.
[(B) Son.
[(C) Daughter.
[(D) Father, if he has not abandoned the support of his family.
[(E) Mother.
[(F) Brother.
[(G) Sister.
[(H) Next of kin.
[(I) Beneficiary named in the will of the deceased.]
*(A) The surviving spouse or legal representative.*
*(B) A child of the deceased.*
*(C) A parent of the deceased.*
*(D) A brother or sister of the deceased.*
*(E) The next of kin of the deceased.*
*(F) A beneficiary named in the will of the deceased to receive the property.*

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# TITLE 12: BANKS AND BANKING

## CHAPTER 13—NATIONAL HOUSING

BANKS AND BANKING

Sec.

* * * * * * *

1715m. Mortgage insurance for [servicemen.] *persons in the service.*
(a) Purpose; housing certificates.
(b) Eligibility of mortgage for insurance.
(c) Manner of acceptance; payment of premiums.

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(f) Transfer of insurance on mortgages covering single-family dwellings or one-family units in condominium projects if mortgage is assumed by [serviceman.] *person in the service.*
(g) Extension of period of ownership where [serviceman] *person in the service* dies while on active duty.

## § 1715m. Mortgage insurance for [servicemen] *persons in the service*

PURPOSE; HOUSING CERTIFICATES

(a) The purpose of this section is to aid in the provision of housing accommodations for [servicemen] *persons in the service* in the Armed Forces of the United States and their families, and [servicemen] *persons in the service* in the United States Coast Guard and their families, by supplementing the insurance of mortgages under section 1709 of this title with a system of mortgage insurance specially designed to assist the financing required for the construction or purchase of dwellings by those persons. As used in this section, a ["serviceman"] *"person in the service"* means a person to whom the Secretary of Defense (or any officer or employee designated by him), or the Secretary of Transportation (or any officer or employee designated by him), as the case may be, has issued a certificate hereunder indicating that such person requires housing, is serving on active duty in the Armed Forces of the United States or in the United States Coast Guard and has served on active duty for more than two years, but a certificate shall not be issued hereunder to any person ordered to active duty for training purposes only. The Secretary of Defense and the Secretary of Transportation, respectively, are authorized to prescribe rules and regulations governing the issuance of such certificates and may withhold issuance of more than one such certificiate to a [serviceman] *person in the service* whenever in his discretion issuance is not justified due to circumstances resulting from military assignment, or, in the case of the United States Coast Guard, other assignment.

ELIGIBILITY OF MORTGAGE FOR INSURANCE

(b) To be eligible for insurance under this section a mortgage shall—

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(4) be executed by a mortgagor who at the time of application for insurance is certified as a ["serviceman"] *"person in the service"* and who at the time of insurance is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard, other assignment.

MANNER OF ACCEPTANCE; PAYMENT OF PREMIUMS

(c) The Secretary may prescribe the manner in which a mortage may be accepted for insurance under this section. Premiums fixed by the Secretary under section 1709 of this title with respect to, or payable during, the period of ownership by a [serviceman] *person in the service* of the property involved shall not be payable by the mortgagee but shall be paid not less frequently than once each year, upon request of the Secretary to the Secretary of Defense or the Secretary of Transportation, as the case may be, from the respective appropriations available for pay and allowances of persons eligible for mortgage insurance under this section. As used herein,

"the period of ownership by a [serviceman"] *person in the service*" means the period, for which premiums are fixed, prior to the date that the Secretary of Defense (or any officer or employee or other person designated by him) or the Secretary of Transportation (or any officer or employee or other person designated by him), as the case may be, furnishes the Secretary with a certification that such ownership (as defined by the Secretary) has terminated.

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TRANSFER OF INSURANCE ON MORTGAGES COVERING SINGLE-FAMILY DWELLINGS OR ONE-FAMILY UNITS IN CONDOMINIUM PROJECTS IF MORTGAGE IS ASSUMED BY [SERVICEMAN] *PERSON IN THE SERVICE*

(f) The Secretary is authorized to transfer to this section the insurance on any mortgage covering a single-family dwelling or a one-family unit in a condominium project insured under this chapter, if the mortgage indebtedness thereof has been assumed by a [serviceman] *person in the service* who at the time of assumption is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard, other assignment.

EXTENSION OF PERIOD OF OWNERSHIP WHERE [SERVICEMAN] *PERSON IN THE SERVICE* DIES WHILE ON ACTIVE DUTY

(g) Where a [serviceman] *person in the service* dies while on active duty in the Armed Forces of the United States or in the United States Coast Guard, leaving a [surviving widow] *surviving spouse* as owner of the property, the period of ownership by the [serviceman] *person in the service* (within the meaning of subsection (c) of this section) shall extend for two years beyond the date of [serviceman's] *person's in the service* death or until the date the [widow] *surviving spouse* disposes of the property, whichever date occurs first. The Secretary of Defense or the Secretary of Transportation, as the case may be, shall notify [such widow] *such surviving spouse* promptly following the [serviceman's] *person's in the service* death of the additional costs to be borne by the mortgagor following termination of the two-year period.

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# TITLE 15: COMMERCE AND TRADE

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## CHAPTER 22—TRADEMARKS

SUBCHAPTER I—PRINCIPAL REGISTER

Sec.

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1052. Trademarks registrable on principal register; concurrent registration.

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**§ 1052. Trademarks registrable on principal register; concurrent registration**

No trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the principal register on account of its nature unless it—

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(c) Consists of or comprises a name, portrait, or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the United States during the life of [his widow,] *the surviving spouse of such President,* if any, except by the written consent of [the widow] *such surviving spouse.*

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# TITLE 16: CONSERVATION

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## CHAPTER 9—FISH AND WILDLIFE SERVICE

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Sec.

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754. Commutation of rations for officers and crews of vessels of Service.

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**§ 754. Commutation of rations for officers and crews of vessels of Service**

Commutation of rations (not to exceed $1 [per man per day] *per day*) may be paid to officers and crews of vessels of the Fish and Wildlife Service under regulations prescribed by the Secretary of the Interior, and money accruing from commutation of rations on board vessels may be paid on proper vouchers to the persons having charge of the mess of such vessels; and section 5911 of Title 5, shall not be construed to require deductions from the salaries of officers and crews of vessels of the Fish and Wildlife Service for quarters and rations furnished on vessels of said Service.

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# TITLE 18: CRIMES AND CRIMINAL PROCEDURE

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## CHAPTER 13—CIVIL RIGHTS

Sec.

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245. Federally protected activities.

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**§ 245. Federally protected activities**

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(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

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*(3) any person because of such person's sex, in violation of such other person's right not to be subject to discrimination on that account and because such other person is or has been participating, or in order to intimidate any person from participating, in any benefit or activity described in paragraph (2); or*

**[**(3)**]** *(4)* during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

**[**(4)**]***(5)* any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

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**[**(5)**]***(6)* any citizen because he is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

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## CHAPTER 53—INDIANS

Sec.

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1153. Offenses committed within Indian country.

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**§ 1153. Offenses committed within Indian country**

Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnaping, rape, **[**carnal knowledge of any female, not his wife, who has not attained the age of sixteen years**]** *sexual abuse of a minor,* assault with intent to commit rape, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons commit-

ting any of the above offenses, within the exclusive jurisdiction of the United States.

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## CHAPTER 99—RAPE

Sec.

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[2032. Carnal knowledge of female under 16.] *2032. Sexual abuse of a minor.*

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### [§ 2032. Carnal knowledge of female under 16]

### *§ 2032. Sexual abuse of a minor*

Whoever, within the special maritime and territorial jurisdiction of the United States, carnally knows any [female] *person*, not his [wife] *spouse*, who has not attained the age of sixteen years, shall, for a first offense, be imprisoned not more than fifteen years, and for a subsequent offense, be imprisoned not more than thirty years.

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## CHAPTER 107—SEAMEN AND STOWAWAYS

Sec.

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2198. [Seduction of female passenger.] *Repealed.*

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### [§ 2198. Seduction of female passenger

[Whoever, being a master, officer, seaman, or other person employed on board of any American vessel, during the voyage, under promise of marriage, or by threats, or the exercise of authority, or solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[Subsequent intermarriage of the parties may be pleaded in bar of conviction and no conviction shall be had on the testimony of the female seduced without other evidence.]

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## CHAPTER 117—WHITE SLAVE TRAFFIC

Sec.

2421. Transportation generally.
2422. Coercion or enticement of female.

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2424. [Filing factual statement about alien female.] *Repealed.*

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### § 2421. Transportation generally

[Whoever] *Any individual who* knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any

Territory or Possession of the United States, any [woman or girl] *other person* for the purpose of prostitution or debauchery, or for any other immoral purpose, with the intent and purpose to induce, entice, or compel such [woman or girl] *other person* to become a prostitute or to give *himself or* herself up to debauchery, or to engage in any other immoral practice; or

[Whoever] *Any individual who* knowingly procures or obtains any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any [woman or girl] *other person* in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such [person] *individual* to induce, entice, or compel [her] *such other person* to give *himself or* herself up to the practice of prostitution, or to give *himself or* herself up to debauchery, or any other immoral practice, whereby any such [woman or girl] *other person* shall be transported in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

**§ 2422. Coercion or enticement of female**

[Whoever] *Any individual who* knowingly persuades, induces, entices, or coerces any [woman or girl] *other person* to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such [person] *individual* that such [woman or girl] *other person* shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without [her] *such other person's* consent, and thereby knowingly causes such [woman or girl] *other person* to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

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**[§ 2424. Filing factual statement about alien female**

[(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage,

and concerning her procuration to come to this country within the knowledge of such person; and

[Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien woman or girl with the Commissioner of Immigration and Naturalization; or

[Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within his knowledge or belief with reference to the age, nationality, or parentage of any such alien woman or girl, or concerning her procuration to come to this country—

[Shall be fined not more than $2,000 or imprisoned not more than two years, or both.

[(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by him, or the information therein contained, might tend to incriminate him or subject him to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section.]

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## CHAPTER 213—LIMITATIONS

Sec.

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3286. [Seduction on vessel of United States] *Repealed.*

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### § 3286. [Seduction on vessel of United States

[No person shall be prosecuted, tried, or punished for seduction in violation of section 2198 of this title unless indictment is found or the information is filed within one year after the vessel on which the offense was committed arrives at its port of destination.]

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## CHAPTER 229—FINES, PENALTIES AND FORFEITURES

Sec.

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3614. [Fine for seduction.] *Repealed.*

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**[§ 3614. Fine for seduction**

[When a person is convicted of a violation of section 2198 of this title and fined, the court may direct that the amount of the fine, when paid, be paid for the use of the female seduced, or her child, if she have any.]

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# TITLE 22: FOREIGN RELATIONS AND INTERCOURSE

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## CHAPTER 4—PASSPORTS

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Sec.

214. Fees for execution and issuance of passports; persons excused from payment.

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**§ 214. Fees for execution and issuance of passports; persons excused from payment**

There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for each passport issued and a fee, prescribed by the Secretary of State by regulation, for executing each application for a passport. Nothing contained in this section shall be construed to limit the right of the Secretary of State by regulation (1) to authorize State officials to collect and retain the execution fee, or (2) to transfer to the United States Postal Service the execution fee for each application accepted by that Service. No passport fee shall be collected from an officer or employee of the United States proceeding abroad in the discharge of official duties, or from members of his *or her* immediate family; from an American seaman who requires a passport in connection with his *or her* duties aboard an American flag-vessel; or from a [widow] *surviving spouse,* child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member. No execution fee shall be collected for an application made before a Federal official by a person excused from payment of the passport fee under this section.

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# TITLE 24: HOSPITALS, ASYLUMS, AND CEMETERIES

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## CHAPTER 2—THE SOLDIERS' HOME

Sec.

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52. Allotment of pensions.

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### § 52. Allotment of pensions

Any inmate of the home who is receiving a pension from the Government, and who has a child, [wife] *spouse*, or parent living, shall be entitled, by filing with the Veterans' Administration a written direction to that effect to have [his] *the inmate's* pension, or any part of it, paid to such child, [wife] *spouse*, or parent. The pensions of all inmates of the home, except such as shall be assigned as aforesaid, shall be paid to the treasurer of the home. The money thus derived shall not become a part of the funds of the home, but shall be held by the treasurer in trust for the pensioner to whom it would otherwise have been paid, and such part of it as shall not sooner have been paid to [him] *the pensioner* shall be paid to [him] *the pensioner* on [his] discharge from the institution. The board of commissioners may from time to time pay over to any inmate such part of [his] *the inmate's* pension money as they think best for [his] *the inmate's* interest and consistent with the discipline and good order of the home, but such pensioner shall not be entitled to demand or have the same so long as [he] *the pensioner* remains an inmate of the home. In case of the death of any pensioner any pension money due [him] *the pensioner* and remaining in the hands of the treasurer shall be paid to [his] *the pensioner's* legal heirs, if demand is made within three years; otherwise the same shall escheat to the home.

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# TITLE 25: INDIANS

## CHAPTER 1—BUREAU OF INDIAN AFFAIRS

Sec.

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13. Expenditure of appropriations by Bureau of Indian Affairs.

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### § 13. Expenditure of appropriations by Bureau of Indian Affairs

The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes:

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For the employment of inspectors, supervisors, superintendents, clerks, [field matrons,] farmers, physicians, Indian police, Indian judges, and other employees.

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## CHAPTER 4—PERFORMANCE BY UNITED STATES OF OBIGATIONS TO INDIANS

Sec.

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137. [Supplies distributed to able-bodied males on condition.] *Repealed.*

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### [§ 137. Supplies distributed to able-bodied males on condition

[For the purpose of inducing Indians to labor and become self-supporting, it is provided that, in distributing the supplies and annuities to the Indians for whom the same are appropriated, the agent distributing the same shall require all able-bodied male Indians between the ages of eighteen and forty-five to perform service upon the reservation, for the benefit of themselves or of the tribe, at a reasonable rate, to be fixed by the agent in charge, and to an amount equal in value to the supplies to be delivered; and the allowances provided for such Indians shall be distributed to them only upon condition of the performance of such labor, under such rules and regulations as the agent may prescribe: *Provided,* That the Secretary of the Interior may, by written order, except any particular tribe, or portion of tribe, from the operation of this provision where he deems it proper and expedient.]

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## CHAPTER 5—PROTECTION OF INDIANS

Sec.

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181. Rights of [white men] *non-Indians* marrying [Indian women;] *Indians;* tribal property.
182. [Rights of Indian women marrying white men; tribal property.] *Repealed.*
183. Marriage of [white men] *non-Indians to* [Indian women;] *Indians;* evidence.
184. Rights of children born of marriages between [white men] *non-Indians* and [Indian women.] *Indians.*

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### § 181. Rights of [white men] *non-Indians* marrying [Indian women;] *Indians;* tribal property

No [white man] *non-Indian,* not otherwise a member of any tribe of Indians, who may after August 9, 1888, marry an Indian [woman] member of any Indian tribe in the United States, or any of its Territories except the Five Civilized Tribes in the Indian Territory, shall by such marriage after August 9, 1888, acquire any right to any tribal property, privilege, or interest whatever to which any member of such tribe is entitled.

**[§ 182. Rights of Indian women marrying white men; tribal property**

[Every Indian woman, member of any such tribe of Indians, who may be married after August 9, 1888, to any citizen of the United States, is hereby declared to become by such marriage a citizen of the United States, with all the rights, privileges, and immunities of any such citizen, being a married woman: *Provided*, That nothing in sections 181 to 183 of this title contained shall impair or in any way affect the right or title of such married woman to any tribal property or any interest therein.]

**§ 183. Marriage of [white men] *non-Indians* to [Indian women;] *Indian;* evidence**

Whenever the marriage of any [white man] *non-Indian* with any [Indian woman] *Indian*, a member of any such tribe of Indians, is required or offered to be proved in any judicial proceeding, evidence of the admission of such fact by the party against whom the proceeding is had, or evidence of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred shall be competent.

**§ 184. Rights of children born of marriages between [white men] *non-Indians* and [Indian women] *Indians***

All children born of a marriage solemnized prior to June 1, 1897, between a [white man] *non-Indian* and an Indian [woman] by blood and not by adoption, where said Indian [woman] was on that date, or was at the time of [her death,] *his or her death*, recognized by the tribe, shall have the same rights and privileges to the property of the tribe to which the [mother] *Indian parent* belongs, or belonged at the time of [her death] *his or her death*, by blood, as any other member of the tribe, and no prior Act of Congress shall be construed as to debar such child of such right.

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## CHAPTER 7—EDUCATION OF INDIANS

Sec.

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274. Employment of Indian girls and boys as assistants.

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**§ 274. Employment of Indian girls and boys as assistants**

The Commissioner of Indian Affairs shall employ Indian [girls as assistant matrons and Indians boys] *youths as dormitory aids and* as farmers and industrial teachers in all Indian schools when it is practicable to do so.

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## CHAPTER 10—DESCENT AND DISTRIBUTION; HEIRS OF ALLOTTEE

Sec.
371. Descent of land.

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### § 371. Descent of land

For the purpose of determining the descent of land to the heirs of any deceased Indian under the provisions of section 348 of this title, whenever any male and female Indian shall have cohabited together as [husband and wife] *spouses* according to the custom and manner of Indian life the issue of such cohabitation shall be, for the purpose aforesaid, taken and deemed to be the legitimate issue of the Indians so living together, and every Indian child, otherwise illegitimate, shall for such purpose be taken and deemed to be the legitimate issue of the [father] *parents* of such child: *Provided*, That the provisions of this Act shall be held or construed as to apply to the lands commonly called and known as the "Cherokee Outlet."

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## CHAPTER 14—MISCELLANEOUS

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SUBCHAPTER XLIII—CATAWBA TRIBE OF SOUTH CAROLINA: DIVISION OF ASSETS

Sec.

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933. Distribution of assets.
(a) Asset held in trust by State.
(b) Designation of land for church, park, playground, or cemetery.
(c) Appraisal of assets; improvements.

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SUBCHAPTER XLVI—PONCA TRIBE OF NEBRASKA: TERMINATION OF FEDERAL SUPERVISION

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973. Distribution of assets.
(a) Tribal assets; time limitation.
(b) Designation of property for church, park, playground, or cemetery.
(c) Homesites; market value; improvements.

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### § 933. Distribution of assets

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#### (c) APPRAISAL OF ASSETS; IMPROVEMENTS

The remaining tribal assets shall be appraised by the Secretary and the share of each member shall be determined by dividing the total number of enrolled members into the total appraisal. The tribal assets so appraised shall not include any improvements that were placed on the part of an assignment that is selected by an assignee, or his [wife] *or her spouse* or children, pursuant to subsection (d) of this section. Such improvements shall be property of the assignee.

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**§ 973. Distribution of assets**

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(c) HOMESITES; MARKET VALUE; IMPROVEMENTS

Each member may select for homesite purposes and receive title to not to exceed five acres of tribal land that is being used for homesite purposes by such member. The member shall pay the current market value of the homesite selection excluding any improvements or repairs constructed by such member, his [wife] *or her spouse*, children, or ancestor, as determined by the Secretary of the Interior.

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# TITLE 28: JUDICIARY AND JUDICIAL PROCEDURE

## CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

Sec.

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604. Duties of Director generally.

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**§ 604. Duties of Director generally**

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

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(7) Regulate and pay annuities to [widows] *surviving spouses* and surviving dependent children of justices and judges of the United States, Directors of the Federal Judicial Center, and Directors of the Administrative Office, and necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers and employees of the Administrative Office, and the Federal Judicial Center, while absent from their official stations on official business.

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# TITLE 30: MINERAL LANDS AND MINING

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## CHAPTER 22—COAL MINES HEALTH AND SAFETY

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SUBCHAPTER II.—INTERIM MANDATORY HEALTH STANDARDS

Sec.

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843. Medical examinations.
(a) Chest roentgenogram; availability; periodic intervals; other tests; transmittal of results; advice of rights.
(b) Evidence of pneumoconiosis; option to transfer; wages.
(c) Costs of examinations and tests.
(d) Autopsies.

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SUBCHAPTER IV.—BLACK LUNG BENEFITS

PART A—GENERAL PROVISIONS

. . . . . .

902. Definitions.

PART B—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1972

921. Regulations and presumptions.
(a) Promulgation; payment of benefits.

. . . . . .

(c) Particular rebuttal presumptions.

. . . . . .

922. Payment of benefits.
(a) Schedules.
(b) Reduction of benefits.

. . . . . .

923. Filing of notice of claim.

. . . . . .

(b) Applicability of sectoins 421 and 423 of Title 42; use of personnel and procedures; reimbursement of expenses.
(c) Filing of claim for workmen's compensation; necessity; exceptions.

924. Time for filing claims.
(a) Claims filed before December 31, 1972.

. . . . . .

(e) Conditions upon payment.

PART C—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1972

931. Filing for benefits under State workmen's compensation laws; adequacy of compensation; listing of States providing adequate compensation; requisites for listing; publication in the Federal Register; review of listings.

. . . . . .

## § 843. Medical examinations—Chest roentgenogram; availability; periodic intervals; other tests; transmittal of results; advice of rights

(a) The operator of a coal mine shall cooperate with the Secretary of Health, Education, and Welfare in making available to each miner working in a coal mine the opportunity to have a chest roentgenogram within eighteen months after December 30, 1969, a second chest roentgenogram within three years thereafter, and subsequent chest roentgenograms at such intervals thereafter of not to exceed five years as the Secretary of Health, Education, and Welfare prescribes. Each worker who begins work in a coal mine for the first time shall be given, as soon as possible after [commencement of his employment,] *the commencement of employment,* and

again three years later if [he] *the worker* is still engaged in coal mining, a chest roentgenogram; and in the event the second such chest roentgenogram shows evidence of the development of pneumoconiosis the worker shall be given, two years later if he *or she* is still engaged in coal mining, an additional chest roentgenogram. All chest roentgenograms shall be given in accordance with specifications prescribed by the Secretary of Health, Education, and Welfare and shall be supplemented by such other tests as the Secretary of Health, Education, and Welfare deems necessary. The films shall be read and classified in a manner to be prescribed by the Secretary of Health, Education, and Welfare, and the results of each reading on each such person and of such test shall be submitted to the Secretary and to the Secretary of Health, Education, and Welfare, and at the request of the miner, to his *or her* physician. The Secretary shall also submit such results to such miner and [advise him of his rights] *advise the miner of the miner's rights* under this chapter related thereto. Such specifications, readings, classifications, and tests shall, to the greatest degree possible, be uniform for all coal mines and miners in such mines.

EVIDENCE OF PNEUMOCONIOSIS; OPTION TO TRANSFER; WAGES

(b)(1) On and after the operative date of this subchapter, any miner who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring [from his position] to another position in any area of the mine, for such period or periods as may be necessary to prevent further development of such disease, where the concentration of respirable dust in the mine atmosphere is not more than 2.0 milligrams of dust per cubic meter of air.

(2) Effective three years after December 30, 1969, any miner who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring [from his position] to another position in any area of the mine, for such period or periods as may be necessary to prevent further development of such disease, where the concentration of respirable dust in the mine atmosphere is not more than 1.0 milligrams of dust per cubic meter of air, or if such level is not attainable in such mine, to a position in such mine where the concentration of respirable dust is the lowest attainable below 2.0 milligrams per cubic meter of air.

(3) Any miner so transferred shall receive compensation for such work at not less than the regular rate of pay received by [him] *the miner* immediately prior to [his] transfer.

COSTS OF EXAMINATIONS AND TESTS

(c) No payment may be required of any miner in connection with any examination or test given [him] *the miner* pursuant to this subchapter. * * *

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AUTOPSIES

(d) If the death of any active miner occurs in any coal mine, or if the death of any active or inactive miner occurs in any other place, the Secretary of Health, Education, and Welfare is authorized to provide for an autopsy to be performed on [such miner, with the consent of his surviving widow or, if he has no such widow, then with the consent of his surviving next of kin,] *such miner, with the consent of the surviving spouse or, if there is no such surviving spouse, then with the consent of the surviving next of kin.* The results of such autopsy shall be submitted to the Secretary of Health, Education, and Welfare and, with the consent of such survivor, to the miner's physician or other interested person. Such autopsy shall be paid for by the Secretary of Health, Education, and Welfare.

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**§ 902. Definitions**

For purposes of this subchapter—

(a) The term "dependent" means—

(1) a child as defined in subsection (g) of this section without regard to subparagraph (2) (B) (ii) thereof; or

(2) a wife *or husband* who is a member of the same household as the miner, or is receiving regular contributions from the miner for [her] support, or whose [husband] *spouse* is a miner who has been ordered by a court to contribute to *his or* her support, or who meets the requirements of section 416(b) (1) or (2) of Title 42. The determination of an individual's status as the "wife" *or "husband"* of a miner shall be made in accordance with section 416(h)(1) of Title 42, as if such miner were the "insured individual" referred to therein. [The term "wife" also includes a "divorced wife"] *The terms "wife" and "husband" also include a "divorced wife" and a "divorced husband", respectively,* as defined in section 416(d)(1) of Title 42 who is receiving at least one-half of *his or* her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to *his or* her support from such miner.

* * * * * * *

(e) [The term "widow" includes the wife] *The terms "widow" and "widower" include the spouse* living with or dependent for support on the miner at the time of [his] *the miner's* death, or living apart for reasonable cause or because of [his] *the miner's* desertion, or who meets the requirements of section 416(c) (1), (2), (3), (4), or (5), and section 416(k) of Title 42, who is not married. The determination of an individual's status as the "widow" *or "widower"* of a miner shall be made in accordance with section 416(h)(1) of Title 42 as if such miner were the "insured individual" referred to therein. [Such term also includes] *Such terms also include* [a "surviving divorced wife" as defined in section 416(d)(2) of Title 42] *a "surviving divorced wife" and a "surviving divorced husband" as*

*defined in paragraphs (2) and (5), respectively, of section 416 of Title 42* who for the month preceding the month in which the miner died, was receiving at least one-half of *his or* her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to *his or* her support from the miner at the time of his death.

* * * * * * *

(g) The term "child" means a child or a step-child who is—

(1) unmarried; and

(2)(A) under eighteen years of age, or

(B)(i) under a disability as defined in section 423(d) of Title 42,

(ii) which began before the age specified in section 402(d)(1)(B)(ii) of Title 42, or, in the case of a student, before he ceased to be a student; or

(C) a student.

The term "student" means a "full-time student" as defined in section 402(d)(7) of Title 42, or a "student" as defined in section 2101(17) of Title 5. The determination of an individual's status as the "child" of the miner or [widow,] *the miner's widow or widower,* as the case may be, shall be made in accordance with section 416(h) (2) or (3) of Title 42 as if such miner or [widow] *the miner's widow or widower* were the "insured individual" referred to therein.

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**§ 921. Regulations and presumptions**

(a) PROMULGATION; PAYMENT OF BENEFITS

The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by [him] *the Secretary* under this part, make payments of benefits in respect of total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose was due to pneumoconiosis or, except with respect to a claim filed under Part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, who at the time of [his] death was totally disabled by pneumoconiosis.

* * * * * * *

(c) PRESUMPTIONS

For purposes of this section—

(1) If a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more coal mines there shall be a rebuttable presumption that [his] *the* pneumoconiosis arose out of such employment.

(2) If a deceased miner was employed for ten years or more in one or more coal mines and died from a respirable disease there shall be a rebuttable presumption that [his] death was

due to pneumoconiosis. The provisions of this paragraph shall not apply with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

(3) If a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classifed in category A, B, or C in the International Classification of Radiographs of the Pneumoconiosis by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that [he] *the miner* is totally disabled due to pneumoconiosis or that [his] death was due to pneumoconiosis or that at the time of [his] death [he] *the miner* was totally disabled by pneumoconiosis, as the case may be.

(4) If a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's [his widow's, his] *or the miner's widows, widower's,* child's, [his] parent's [his] brother's, [his] sister's, or [his] dependent's claim under this subchapter and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, then there shall be a rebuttable presumption that such miner is totally disabled due to pneumoconiosis, that [his] death was due to pneumoconiosis, or that at the time of [his] death [he] *the miner* was totally disabled by pneumoconiosis. In the case of a living miner, a wife's *or husband's* affidavit may not be used by itself to establish the presumption. The Secretary shall not apply all or a portion of the requirement of this paragraph that the miner work in an underground mine where [he] *the Secretary* determines that conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine. The Secretary may rebut such presumption only by establishing that (A) such miner does not, or did not, have pneumoconiosis, or that (B) [his] *such miner's* respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine. The provisions of this paragraph shall not apply with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

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**§ 922. Payment of benefits**

(a) SCHEDULES

Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

* * * * * * *

(2) In the case of death of a miner due to pneumoconiosis or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, of a miner receiving benefits under this part, benefits shall be paid to [his widow] *the widow or widower* (if any) at the rate the deceased miner would receive such benefits if [he were] totally disabled.

(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, of a miner who is receiving benefits under this part at the time of [his] death or who was totally disabled by pneumoconiosis at the time of [his] death, in the case of the child or children of a widow *or widower* who is receiving benefits under this part at the time of [her] *the widow's or widower's* death, and in the case of any child or children entitled to the payment of benefits under paragraph (5) of section 921(c) of this title, benefits shall be paid to such child or children as follows: If there is one such child, [he] *the child* shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: *Provided,* That benefits shall only be paid to a child for so long as he *or she* meets the criteria for the term "child" contained in section 902(g) of this title: *And provided further,* That no entitlement to benefits as a child shall be established under this paragraph (3) for any month for which entitlement to benefits as a widow *or widower* is established under paragraph (2).

* * * * * * *

(5) In the case of the dependent parent or parents of a miner whose death is due to pneumonoconiosis, or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, of a miner who is receiving benefits under this part at the time of [his] death or who was totally disabled by pneumonoconiosis at the time of death, and who is not survived [at the time of his death] by [a widow or a child] *a widow, widower, or child,* in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived [at the time of his death] by [a widow, child] *a widow, widower, or child,* or parent, in the case of the dependent parent or parents of a miner (who is not survived [at the time of his or her death] by [a widow or a child)] *a widow, wid-*

*ower, or child)* who are entitled to the payment of benefits under paragraph (5) of section 921(c) of this title, or in the case of the dependent surviving brother(s) or sister(s) of a miner (who is not survived [at the time of his or her death] by [a widow, child, or parent,] *a widow, widower, child or parent)* who are entitled to the payment of benefits under paragraph (5) of section 921(c) of this title, benefits shall be paid under this part to such parent(s), or to such brother(s) or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under subchapter II of chapter 7 of Title 42. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to [a brother only if he is—] *a brother or sister only if the brother or sister is—*

* * * * * * *

(2) [who is,] at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act [42 U.S.C.A. § 423(d)], during such disability. * * *

* * * * * * *

(6) If an individual's benefits would be increased under paragraph (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulation prescribed by [him] *the Secretary,* certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

(b) REDUCTION OF BENEFITS

Notwithstanding subsection (a) of this section, benefit payments under this section to a miner or [his widow] *the miner's widow, widower,* child, parent, brother, or sister shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner or [his widow] *the miner's widow, widower,* child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner to pneumoconiosis, and the amount by which such payment would be reduced on account of excess earnings of such miner under section 203(b) through (*l*) of the Social Security Act if the amount paid were a benefit payable under section 202 of the Social Security Act.

This part shall not be considered a workmen's compensation law or plan for purposes of section 424a of such Act.

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**§ 923. Filing of notice of claim**

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(b) UTILIZATION OF PERSONNEL AND PROCEDURES; EVIDENCE REQUIRED TO ESTABLISH CLAIM; MEDICAL EVIDENCE; AFFIDAVITS; AUTOPSY REPORTS; REIMBURSEMENT OF EXPENSES

In carrying out the provisions of this part, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures [he uses] *used* in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act [42 U.S.C.A § 423], but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this part, all relevant evidence shall be considered, including, where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or [his wife's] *the wife's or husband's* affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials. Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits, from persons not eligible for benefits in such case with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981, shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his or her death was due to pneumoconiosis. In any case, other than that involving a claim filed on or after the effective date of the Black Lung Benefits Amendments of 1981, in which there is other evidence that a miner has a pulmonary or respiratory impairment, the Secretary shall accept a board certified or board eligible radiologist's interpretation of a chest roentgenogram which is of a quality sufficient to demonstrate the presence of pneumoconiosis submitted in support of a claim for benefits under this subchapter if such roentgenogram has been taken by a radiologist or qualified technician, except where the Secretary has reason to believe that the claim has been fraudulently represented. In order to insure that any such roentgenogram is of adequate quality to demonstrate the presence of pneumoconiosis, and in order to provide for uniform quality in the roentgenograms, the Secretary of Labor may, by regulation, establish specific requirements for the techniques used to take roentgenograms of the chest. Unless the Secretary has good cause to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such autopsy report concerning the presence of pneumoconiosis and the stage of advancement of pneumoconiosis. Claimants under this part shall be reimbursed for reasonable medical expenses incurred by

them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsection (a), (b), (c), (d), and (g) of section 221 of such Act [42 U.S.C.A. § 421 (a) to (d), (g)] shall be applicable. The provisions of sections 204, 205 (a), (b), (d), (e), (g), (h), (j), (k) (*l*), and (n), 206, 207, and 208 of the Social Security Act [42 U.S.C.A. § 404, 405 (a), (b), (e), (g), (h), (j), (k), (*l*), and (n), 406, 407, 408], shall be applicable under this part with respect to a miner[, widow,] *or the miner's widow, widower,* child, parent, brother, sister, or dependent as if benefits under this part were benefits under Title II of such Act [42 U.S.C.A. § 401 et seq.]. Each miner who files a claim for benefits under this subchapter shall upon request be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation.

FILING A CLAIM FOR WORKMEN'S COMPENSATION; NECESSITY; EXCEPTIONS

(c) No claim for benefits under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his *or her* claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because pneumoconiosis is not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

**§ 924. Time for filing claims**

(a) CLAIMS FILED BEFORE DECEMBER 31, 1973

(1) No claim for benefits under this part on account of total disability of a miner shall be considered unless it is filed on or before December 31, 1973, or, in the case of a claimant who is a widow *or widower,* within six months after the death of [her husband] *the miner* or by December 31, 1973, whichever is later.

(2) In the case of a claim by a child this paragraph shall apply notwithstanding any other provision of this part.

* * * * * * *

(C) No claim for benefits under this part, in the case of a claimant who is a child shall be considered unless it is filed within six months after the death of [his] *the claimant's* father or mother (whichever last occurred) or by December 31, 1973, whichever is the later.

* * * * * * *

(e) CONDITIONS UPON PAYMENT

No benefits shall be payable to a widow, *widower,* child, parent, brother, or sister under this part on account of the death of a miner unless (1) benefits under this part were being paid to such miner with respect to disability due to pneumoconiosis prior to [his] *the miner's* death, (2) the death of such miner occurred prior

to January 1, 1974, or (3) any such individual is entitled to benefits under paragraph (5) of section 921(c) of this title.

**§ 931. Filing for benefits under State workmen's compensation laws; adequacy of compensation; listing of States providing adequate compensation; requisites for listing; publication in the Federal Register; review of listings**

(a) On or after January 1, 1974, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows, *widowers*, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis, and in any case in which benefits based upon eligibility under paragraph (5) of section 921(c) of this title are involved they shall be entitled to claim benefits under this part.

(b)(1) * * *

* * * * * * * *

(2) The Secretary shall include a State workmen's compensation law on such list during any period only [if he finds] *upon finding* that during such period under such law—

* * * * * * * *

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in sections 901 to 921 and 922 to 950 of Title 33, which are applicable under section 932(a) of this title, but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated [by him], determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

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# TITLE 33: NAVIGATION AND NAVIGABLE WATERS

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## CHAPTER 17—COAST AND GEODETIC SURVEY

GENERAL PROVISIONS

Sec.

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857-4. Same; commissary privileges; sales of rations, stores, uniforms, and related equipment; widows' rights.

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**§ 857–4. Same; commissary privileges; sales of rations, stores, uniforms, and related equipment; widows' rights**

(a) Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the armed forces at the prices charged officers and [enlisted men] *enlisted persons* of those services.

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(c) Rights extended to members of the uniformed services in this section are extended to [their widows] *the surviving spouses of such members* and to such others as are designated by the Secretary concerned.

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## CHAPTER 18—LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

Sec.

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909. Compensation for death.

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914. Payment of compensation.

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(j) Discharge of employer's liability for compensation.

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**§ 909. Compensation for death**

If the injury causes death, or if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding $1,000.

(b) If there be a widow or widower and no child of the deceased, to such widow or widower 50 per centum of the average wages of the deceased, during widowhood, or [dependent] widowerhood, with two years' compensation in one sum upon remarriage; and if there be a surviving child or children of the deceased, the additional amount of 16⅔ per centum of such wages for each such child; in case of the death or remarriage of such widow or widower, if there be one surviving child of the deceased employee, such child shall have his compensation increased to 50 per centum of such wages, and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 50 per centum of such wages increased by 16⅔ per centum of such wages for each child in excess of one: *Provided,* That the total amount payable shall in no case exceed 66⅔ per centum of such wages. The deputy commissioner having jurisdiction over the claim may, in his discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one surviving child of the deceased, but no widow or widower, then for the support of such child 50 per centum of the wages of the deceased; and if there be more than one surviving child of the deceased, but no widow or [dependent husband] *widower*, then for the support of such children, in equal parts 50 per centum of such wages increased by 16⅔ per centum of such wages for each child in excess of one: *Provided*, That the total amount payable shall in no case exceed 66⅔ per centum of such wages.

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(g) Aliens: Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving [wife] *spouse* and child or children, or if there be no surviving [wife] *spouse* or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the injury, and except that the Secretary may, at his option or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

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**§ 914. Payment of compensation**

DISCHARGE OF EMPLOYER'S LIABILITY FOR COMPENSATION

(j) Whenever the deputy commissioner determines that it is in the interest of justice, the liability of the employer for compensation, or any part thereof as determined by the deputy commissioner with the approval of the Secretary, may be discharged by the payment of a lump sum equal to the present value of future compensation payments commuted, computed at 4 per centum true discount compounded annually. The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period [during which he is entitled] *during which he or she is entitled* to compensation shall be determined in accordance with the American Experience Table of [Mortality, and the probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution.] *Mortality*. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

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# TITLE 37: PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

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### CHAPTER 10.—PAYMENTS TO MISSING PERSONS

Sec.
551 Definitions.

**§ 551. Definitions**

In this chapter—

(1) "dependent", with respect to a member of a uniformed service, means—

(A) his [wife] *spouse*;

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# TITLE 38: VETERANS' BENEFITS

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### CHAPTER 59—AGENTS AND ATTORNEYS

Sec.

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3402. Recognition of representatives of organizations.

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**§ 3402. Recognition of representatives of organizations**

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(c) Service rendered in connection with any such claim, while not on active duty, by any retired officer, warrant officer, or enlisted [man] *member* of the Armed Forces recognized under this section shall not be a violation of sections 203, 205, 206, or 207 of title 18.

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# TITLE 41: PUBLIC CONTRACTS

### CHAPTER 1—GENERAL PROVISIONS

Sec.

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35. Contracts for materials, etc., exceeding $10,000; representations and stipulations.
36. Same; liability for breach; cancellation; completion by Government agency; employee's wages.

* * * * * * *

**§ 35. Contracts for materials, etc., exceeding $10,000; representations and stipulations**

* * * * * * *

(d) That [no male person under sixteen years of age and no female persons under eighteen years of age] *no person under sixteen years of age* and no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract, except that this section, or any other law or Executive order

containing similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of Title 18; and

* * * * * * *

**§ 36. Same; liability for breach; cancellation; completion by Government agency; employee's wages**

Any breach or violation of any of the representations and stipulations in any contract for the purposes set forth in section 35 of this title shall render the party responsible therefor liable to the United States of America for liquidated damages, in addition to damages for any other breach of such contract, the sum of $10 per day for [each male person under sixteen years of age or each female person under eighteen years of age] *each person under sixteen years of age,* or each convict laborer knowingly employed in the performance of such contract, and a sum equal to the amount of any deductions, rebates, refunds, or underpayment of wages due to any employee engaged in the performance of such contract; and, in addition, the agency of the United States entering into such contract shall have the right to cancel same and to make open-market purchases or enter into other contracts for the completion of the original contract, charging any additional cost to the original contractor. Any sums of money due to the United States of America by reason of any violation of any of the representations and stipulations of said contract set forth in section 35 of this title may be withheld from any amounts due on any such contracts or may be recovered in suits brought in the name of the United States of America by the Attorney General thereof. All sums withheld or recovered as deductions, rebates, refunds, or underpayments of wages shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employees who have been paid less than minimum rates of pay as set forth in such contracts and on whose account such sums were withheld or recovered: *Provided,* That no claims by employees for such payments shall be entertained unless made within one year from the date of actual notice to the contractor of the withholding or recovery of such sums by the United States of America.

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# TITLE 42: THE PUBLIC HEALTH AND WELFARE

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## CHAPTER 6A—PUBLIC HEALTH SERVICE

SUBCHAPTER I—ADMINISTRATION

Sec.

* * * * * * *

213. Military benefits.
(a) Rights, privileges, immunities, and benefits accorded to commissioned officers or their survivors.

* * * * * * *

**§ 213. Military benefits**

(a) RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS ACCORDED TO COMMISSIONED OFFICERS OR THEIR SURVIVORS

* * * * * * *

Burial of Certain Commissioned Officers. Act April 30, 1956, c. 227, 70 Stat. 124, provided: "That burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I pursuant to the Act of July 1, 1902 (32 Stat. 712, 713), as amended, and Executive Order Numbered 2571 dated April 3, 1917, and of the [wife, widow] *spouse, surviving spouse,* minor child and, in the discretion of the Secretary of the Army, unmarried adult child of these officers is authorized: *Provided,* That the remains of the [wife, widow] *spouse, surviving spouse* and children may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a national cemetery, if, upon death, the related officer is not buried in the same or an adjoining gravesite"

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## CHAPTER 7—SOCIAL SECURITY

* * * * * * *

SUBCHAPTER II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Sec.

* * * * * * *

413. Quarter and quarter of coverage.
(a) Definitions.

* * * * * * *

415. Computation of primary insurance amount.

* * * * * * *

(f) Recomputation of benefits.

* * * * * * *

SUBCHAPTER IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

* * * * * * *

602 State plans for aid and services to needy families with children; contents; approval by Secretary; records and reports; treatment of earned income advances.
(a) Contents.

* * * * * * *

PART C—WORK INCENTIVE PROGRAM FOR RECIPIENTS OF AID UNDER STATE PLAN APPROVED UNDER PART A

* * * * * * *

633. Operation of program.
(a) Testing and counseling program; selection of individuals.

* * * * * * *

SUBCHAPTER XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

PART A—GENERAL PROVISIONS

1307. Penalty for fraud.

* * * * * * *

**§ 413. Quarter and quarter of coverage**

(a) DEFINITIONS

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(2)(A) The term "quarter of coverage" means—

* * * * * * *

(B) Notwithstanding the provisions of subparagraph (A)—If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 [(if a woman) or age 65 (if a man)] or died before July 1, 1957, the * * *

* * * * * * *

**§ 415. Computation of primary insurance amount**

For the purposes of this subchapter—

* * * * * * *

(f) RECOMPUTATION OF BENEFITS

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(5) In the case of [a man] *an individual* who became entitled to old-age insurance benefits and died before the month in which he attained retirement age (as defined in section 416 (*l*) of this title),

* * * * * * *

**§ 602. State plans for aid and services to needy families with children; contents; approval by Secretary; records and reports; treatment of earned income advances**

(a) CONTENTS

* * * * * * *

(19) provide—

* * * * * * *

(G) that the State agency will have in effect a special program which (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the [mother] *parent* may choose the type, but [she] may not refuse to accept child care services if they are available; and

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**§ 633. Operation of program**

(a) TESTING AND COUNSELING PROGRAM; SELECTION OF INDIVIDUALS

The Secretary shall provide a program of testing and counseling for all persons certified to him by a State, pursuant to section

602(a) (19) (G) of this title, and shall select those persons whom he finds suitable for the programs established by clauses (1) and (2) of section 632(b) of this title. Those not so selected shall be deemed suitable for the program established by clause (3) of such section 632(b) of this title unless the Secretary finds that there is good cause for an individual not to participate in such program. The Secretary, in carrying out such program for individuals certified to him under section 602(a) (19) (G) of this title, shall accord priority to such individuals in the following order, taking into account employability potential: [first, unemployed parents who are the principal earners (as defined in section 607 of this title); second, mothers, whether or not required to register pursuant to section 602(a) (19) (A) of this title, who volunteer for participation under a work incentive program; third, other mothers, and pregnant women, registered pursuant to section 602(a) (19) (A) of this title, who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and fifth, all other individuals so certified to him] *first, unemployed parents; second, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and third, all other individuals so certified.*

* * * * * * *

**§ 1307. Penalty for fraud**

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Secretary that he is such individual, or the wife, husband, widow, widower, [former wife divorced] *divorced spouse*, child, or parent of such individual, or the duly authorized agent of such individual, or of the wife, husband, widow or widower [former wife divorced] *divorced spouse*, child, or parent of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

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**CHAPTER 11—COMPENSATION FOR DISABILITY OR DEATH TO PERSONS EMPLOYED AT MILITARY, AIR, AND NAVAL BASES OUTSIDE UNITED STATES**

Sec.

* * * * * * *

1652. Computation of benefits; application to aliens and nonnationals.

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**§ 1652. Computation of benefits; application to aliens and nonnationals**

(a) The minimum limit on weekly compensation for disability, established by section 906(b) of Title 33, and the minimum limit on

the average weekly wages on which death benefits are to be computed, established by section 909(e) of Title 33, shall not apply in computing compensation and death benefits under this chapter.

(b) Compensation for permanent total or permanent partial disability under section 908(c)(21) of Title 33, or for death under this chapter to aliens and nonnationals of the United States not residents of the United States or Canada shall be in the same amount as provided for residents, except that dependents in any foreign country shall be limited to [surviving wife] *surviving spouse* and child or children, or if there be no [surviving wife] *surviving spouse* or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury, and except that the Secretary of Labor may, at [his option] *his or her option* or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens or nonnationals of the United States by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

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## CHAPTER 13A—CHILD NUTRITION

Sec.

* * * * * * *

1773. School breakfast program.

* * * * * * *

(c) Disbursement of apportioned funds by State; preference for schools in poor economic areas, for students traveling long distances daily, and for schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families.

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(g) Expansion of programs.

* * * * * * *

### § 1773. School breakfast program

* * * * * * *

(c) DISBURSEMENT OF APPORTIONED FUNDS BY STATE; PREFERENCE FOR SCHOOLS IN POOR ECONOMIC AREAS, FOR STUDENTS TRAVELING LONG DISTANCES DAILY, AND FOR SCHOOLS FOR IMPROVEMENT OF NUTRITION AND DIETARY PRACTICES OF CHILDREN OF WORKING MOTHERS AND FROM LOW-INCOME FAMILIES

Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in operating a breakfast program and for the purpose of subsection (d) of this section. Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substan-

tial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children [of working mothers] *from households in which both parents work or from single parent households in which the parent works* and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

* * * * * * *

(g) EXPANSION OF PROGRAM

As a national nutrition and health policy, it is the purpopse and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy. Within 4 months after October 7, 1975, the Secretary shall report to the committees of jurisdiction in the Congress [his] *the Secretary's* plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program.

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## CHAPTER 21—CIVIL RIGHTS

SUBCHAPTER I—GENERALLY

Sec.

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1986. Action for neglect to prevent.

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### § 1986. Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or [his legal representatives] *his or her legal representative* for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the [widow] *surviving spouse* of the deceased, if there be one, and if there be no [widow] *surviving spouse* then for the benefit of the next of kin of the deceased. But no action under the provisions of this section

shall be sustained which is not commenced within one year after the cause of action has accrued.

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# TITLE 43: PUBLIC LANDS

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## CHAPTER 7—HOMESTEADS

GENERAL PROVISIONS

Sec.
161. Entry of unappropriated public lands.
162. Application for entry; affidavit.
* * * * * * *
164. Certificate or patent; issuance.
* * * * * * *
166. Time for settlers to file application and to perfect entry; marriage of entry woman; preferential right of entry.
167. Marriage of entryman to entrywoman.
168. [Marriage of entrywoman to alien.] *Repealed.*
* * * * * * *
170. Rights of wife abandoned by husband.

RIGHTS OF PARTICULAR PERSONS TO MAKE ENTRY

* * * * * * *
240. Service in time of war as equivalent to residence and cultivation.
* * * * * * *
243a. Same; extension of credits to widows; patents to minor children on death of mother.

FINAL PROOF GENERALLY

* * * * * * *
255. Persons in military or naval service; affidavits taken by commanding officer.
* * * * * * *

SOLDIERS' AND SAILORS' HOMESTEAD

271. Soldiers and sailors entitled to make entry generally.
272. Deduction of military and naval service from time required to perfect title; rights of widows and children of veterans.
* * * * * * *
278. Right of widow of veteran to make entry; rights of children on her death.
* * * * * * *

### § 161. Entry of unappropriated public lands

[Every person who is the head of a family, or who has] *Every person who is married or who has one or more dependents or who has* arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his *or her* declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one-quarter section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than one hundred and sixty acres of land in any

State or Territory, shall acquire any right under the homestead law. And every person owning and residing on land may, under the provision of this section, enter other land lying contiguous to his *or her* land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

**§ 162. Application for entry; affidavit**

Any person applying to enter land under section 161 of this title shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she [is the head of a family, or is over twenty-one years of age,] *is married, or has one or more dependents, or is over twenty-one years of age*, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself, or herself, and upon filing such affidavit with the officer designated by the Secretary of the Interior on payment of $5 when the entry is of not more than eighty acres, and on payment of $10 when the entry is for more than eighty acres, he or she shall thereup be permitted to enter the amount of land specified.

* * * * * * *

**§ 164. Certificate or patent; issuance**

[No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself] *No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if such enterer be dead, the surviving spouse, or in case of the surviving spouse's death the enterer's heirs or devisee, or in case of a surviving spouse making such entry the surviving spouse's heirs or devisee, in case of the surviving spouse's death, proves by the enterer* and by two credible witnesses that [he, she, or they] *they* have a habitable hosue upon the land and have actually resided upon and cultivated the same for the

term of three years succeeding the time of filing the affidavit and makes affidavit that no part of such land has been alienated, except as provided in section 174 of this title, and that [he, she, or they] *they* will bear true allegiance to the Government of the United States, then in such case [he, she, or they,] *they*, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided*, That upon filing in the local land office notice of the beginning of such absence the [entryman] *enterer* shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the [entryman] *enterer* shall file a notice of such termination in the lcoal land office, but in case of commutation the fourteen months' actual residence required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided further*, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the [entryman] *enterer* had complied with the law in all respects to the [date of his death] *date of his or her death*, and that they have since complied with the law in all respects, as would have been required of the [entryman] *enterer* [had he lived] *had he or she lived*, excepting that they are relieved from any requirement of residence upon the land: *Provided further*, That the [entryman] *enterer* shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the [area of his entry] *area of his or her entry*, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry and until final proof, except that in the case of entries under section 218(f) of this title, double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed [by him] reduce the required area of cultivation: *And provided further*, That the above provision as to cultivation shall not apply to entries under section 224 of this title, commonly known as the Kinkaid Act, or entries under sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title, commonly known as the reclamation law, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required.

* * * * * * *

**§ 166. Time for settlers to file application and to perfect entry; marriage of entrywoman; preferential right of entry**

Any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same [time to file his] *time to file his or her* homestead application and [perfect his original entry] *perfect original entry* in the United States Land Office as allowed on May 14, 1880, to settlers under the then existing preemption laws to put their claims on record, [and his right] *and the right*

shall relate back to the date of settlement, the same as [if he settled] *if the settler settled* under such preemption laws.

Where an [unmarried woman] *unmarried person* who has heretofore settled, or may hereafter settle, upon a tract of public land, improved, established, and maintained a bona-fide residence thereon, with the intention of appropriating the same for a home, subject to the homestead law, and has married, or shall thereafter marry, before entry of said land, or before making application to enter said land, [she] *the person* shall not on account of [her marriage] *the marriage* forfeit [her right] *his or her right* to make entry and receive patent for the land: *Provided,* That [she does not abandon] *the person does not abandon his or* her residence on said land, and is otherwise qualified to make homestead entry: [*Provided further,* That the man whom she marries is not, at the time of their marriage, claiming a separate tract of land under the homestead law:] *Provided further,* That any settler upon lands designated by the Secretary of the Interior as subject to the provisions of subsections (a)–(e), of section 218 of this title and subsections (a)–(e), of section 219 of this title, shall be entitled to the preference right of entry accorded by this section, provided [he] *the settler* shall have plainly marked the exterior boundaries of the lands claimed as [his] *his or her* homestead: *And provided further,* That after the designation by the Secretary of the Interior of public lands for entry under the nonresidence provisions of the Enlarged Homestead Acts, sections 218 and 219 of this title, any person who shall have plainly marked the exterior boundaries of the lands claimed under said provisions of law and made valuable improvements thereon shall have a preference right to enter the lands so claimed and improved at any time within three months after the date on which such lands become subject to entry; but such right shall forfeit unless the settler or claimant under the provisions of the Enlarged Homestead Acts shall annually cultivate and improve the lands in the form and manner and to the extent therein required following date of initiation of [his] *his or her* claim hereunder.

**§ 167. Marriage of entryman to entrywoman**

[The marriage of a homestead entryman to a homestead entrywoman after each shall have fulfilled the requirements of the homestead law for one year next proceeding such marriage shall not impair the right of either to a patent, but the husband shall elect, under rules and regulations prescribed by the Secretary of the Interior, on which of the two entries the home shall thereafter be made, and residence thereon by the husband and wife shall constitute a compliance with the residence requirements upon each entry: *Provided,* That the provisions of this action shall apply to entries existing on April 6, 1914: *Provided further,* That in the administration of this section the terms "entryman" and "entrywoman" shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.]

*The marriage of one homestead enterer to another after each shall have fulfilled the requirements of the homestead law for one year next proceeding such marriage shall not impair the right of either*

*to a patent, but if they choose to live together, they shall together elect on which of the two entries the home shall thereafter be made and residence thereon by both spouses shall constitute a compliance with the residence requirements upon each entry: Provided, That the provisions of this action shall apply to entries existing on April 6, 1914: Provided further, That in the administration of this section the term "enterer" shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.*

**[§ 168. Marriage of entrywoman to alien**

[Any female citizen of the United States who has initiated a claim to a tract of public land under any of the laws applicable thereto, and who thereafter has complied with all the conditions as to the acquisition of title to such land prescribed by the public land laws of the United States, shall, notwithstanding her intermarriage with an alien, who is entitled to become a citizen of the United States, be entitled to a certificate or patent to such entry equally as though she had remained unmarried or had married an American citizen.]

* * * * * *

**§ 170. Rights of wife abandoned by husband**

In any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the [wife] *spouse* of such homestead settler or [entryman] *enterer*, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted [by her husband] *by the enterer spouse* for a period of more than one year, the deserted [wife] *spouse* shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefore [in her name] *in his or her name* in the form, manner, and subject to the conditions prescribed in section 164 of this title: *Provided*, That in such cases the [wife] *deserted spouse* shall be required to show residence upon, cultivation, and improvement of the homestead by [herself] *such deserted spouse* for such time as when, added to the time during which [her husband] *the enterer spouse* prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted [wife] *spouse*, and, prior to its submission, notice thereof shall be served upon the [husband] *deserting enterer spouse* of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.

* * * * * * *

**§ 240. Service in time of war as equivalent to residence and cultivation**

In every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or during any other war in which the United States may be engaged, his *or her* services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and after June 16, 1898, no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases thereafter initiated that the settler's alleged absence from the land was not due to his *or her* employment in such service: *Provided*, That if such settler shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his *or her* enlistment shall be deducted from the required length of residence without reference to the time of actual service: *Provided further*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his *or her* homestead for a period of at least one year after he *or she* shall have commenced his *or her* improvements.

The above provisions of this section shall be applicable in all cases of military service rendered in connection with operations in Mexico, or along the borders thereof, or in mobilization camps elsewhere, whether such service be in the military or naval organization of the United States or the National Guard of the several States now or hereafter in the service of the United States.

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**§ 243a. Same; extension of credits to widows; patents to minor children on death of mother**

The provisions and limitations of section 243 of this title are extended to the [widow] *surviving spouse* of any person who would be entitled to make homestead entry or settlement and receive credit in connection therewith for military service under the provisions of said section, if such [widow] *surviving spouse* is unmarried and otherwise qualified to make entry of public lands under the provisions of the homestead laws of the United States and has heretofore made or shall hereafter make such entry: *Provided*, That in the event of the death of any such [widow] *surviving spouse* prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law.

* * * * * * *

**§ 255. Persons in military or naval service; affidavits taken by commanding officer**

In case of any person desirous of availing [himself] *himself or herself* of the benefits of sections 161–164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which sections 161, 162, 164, 171, and 174 of this title require, and whose family, or some member thereof, is residing on the land which [he] *the person* desires to enter, and upon which a bonafide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the officer designated by the Secretary of the Interior; and upon such affidavit being filed with the officer designated by the Secretary of the Interior by the [wife] *spouse* or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

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**§ 271. Soldiers and sailors entitled to make entry generally**

Every private soldier and officer who served in the Army of the United States during the recent rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an Act approved February 13, 1862, and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, and every private soldier and officer who served in the Army of the United States during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged; and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged, shall, on compliance with the provisions of sections 161–64, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months [after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement.] *after locating a homestead and filing*

*a declaratory statement within which to make entry and commence settlement and improvement of the land.*

**§ 272. Deduction of military and naval service from time required to perfect title; rights of widows and children of veterans**

The time which the homestead settler has served in the Army, Navy, or Marine Corps of the United States shall be deducted from the time otherwise required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, or if regularly discharged from service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time so required to perfect title without reference to the length of time he *or she* may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated [his homestead for a period of at least one year after he shall have commenced his improvements] *his or her homestead for a period of at least one year after the improvements were commenced:* [*Provided,* That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle his widow, if unmarried, or in the case of her death or marriage, then his minor orphan children or his or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, that the applicant for patent is the widow, if unmarried, or in case of her death or marriage, his orphan children or his or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.] *Provided, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection the settler's survivors, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a*

*performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, that the applicant for patent is the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, the orphan children or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.*

* * * * * * *

**§ 278. Right of widow of veteran to make entry; rights of children on her death**

In the case of the death of any person who would be entitled to a homestead under the provisions of sections 271 and 272 of this title, **[**his widow**]** *the surviving spouse*, if unmarried and otherwise qualified, may make entry of public lands under the provisions of the homestead laws of the United States and shall be entitled to all the benefits enumerated in said sections subject to the provisions and requirements as to settlement, residence, and improvement therein contained: *Provided*, That in the event of the death of such homestead **[**entrywoman**]** *enterer* prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law.

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# TITLE 45: RAILROADS

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## CHAPTER 9—RETIREMENT OF RAILROAD EMPLOYEES

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SUBCHAPTER IV—RAILROAD RETIREMENT ACT OF 1974

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231a. Annuity eligibility requirements.

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(c) Spouses eligible for annuities.
(d) Survivors eligible for annuities.
(e) Compensated service; rights to return.
(f) Deductions on account of work.

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(h) Military service; reductions.

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231c. Computation of spouse and survivor annuities.

(a) Amount of spouses' annuities; age.

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(f) Amount of survivors' annuities; age; entitlement.
(g) Increases in survivors' annuities in accordance with subsec. (f).
(h) Increases in particular widows' and widowers' annuities.
(i) Reductions in survivors' annuities.

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231d. Annuity beginning and ending dates.
(a) Annuities under section 231a of this title.
(b) Applications for payment.
(c) Individual's entitlement.
231e. Lump-sum payments.
(a) Eligible annuities; applications; reversion; determination of status of recipient.
(b) Payments in accordance with the Railroad Retirement Act of 1937 and the Social Security Act.
(c) Payments in the absence of further benefits.

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231f. Railroad Retirement Board.

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(b) Powers and duties.
(c) Sources of payments; adjustments.
(d) Hospital insurance benefits; certified beneficiaries; insurance benefits; services in Canada; exchange of information.

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**§ 231a. Annuity eligibility requirements.**

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(c) SPOUSES ELIGIBLE FOR ANNUITIES.

(1) The spouse of an individual, if—

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(ii) such spouse (A) has attained the age of 65, or (B) has attained the age of 60 and such individual has completed thirty years of service, or (C) **[**in the case of a wife, has in her care (individually or jointly with her husband)**]** *has in his or her care (individually or jointly with his or her spouse)* a child who meets the qualifications prescribed in paragraph (iii) of subsection (d)(1) of this section (without regard to the provisions of clause (B) of such paragraph), shall, subject to the conditions set forth in subsections (e), (f), and (h) of this section, be entitled to a spouse's annuity, if he or she has filed application therefor, in the amount provided under section 231c of this title.

(2) A spouse who would be entitled to an annuity under subdivision (1) or a divorced wife *or divorced husband* who would be entitled to an annuity under subdivision (4) if he or she has attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by 1/144 for each calendar month that the spouse or divorced wife *or divorced husband* is under age 65 when the annuity begins to accrue.

(3) For the purposes of this subchapter, the term "spouse" shall mean the wife or husband of an annuitant under subsection (a)(1)

of this section [who (i)] *who* was married to such annuitant for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed, or in the month prior to his or her marriage to such annuitant was eligible for an annuity under paragraph (i) or (iv) of subsection (d)(1) of this section or, on the basis of disability, under paragraph (iii) thereof, or is the parent of such annuitant's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant were members of the same household, or such wife or husband was receiving regular contributions from such annuitant toward her or his support, or such annuitant has been ordered by any court to contribute to the support of such wife or [husband,] *husband.* [and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's annuity under subsection (a)(1) of this section began.]

[(4) The "divorced wife" (as defined in section 216(d) of the Social Security Act [42 U.S.C.A. § 416(d)]) of an individual, if—

[(i) such individual (A) is entitiled to an annuity under subsection (a)(1) of this section and (B) has attained the age 62;

[(ii) such divorced wife (A) has attained the age of 65 and (B) is not married; and

[(iii) such divorced wife would have been entitled to a benefit under section 202(b) of the Social Security Act [42 U.S.C.A. § 402(b)] as the divorced wife of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term "employment" as defiend in that Act;

shall, subject to the conditions set forth in subsections (e), (f), and (h) of this section, be entitled to a divorced wife's annuity, if she has filed an application therefor, in the amount provided under section 231c of this title.]

*(4) The divorced wife (as defined in section 216(d) of the Social Security Act) or divorced husband (as defined in such section) of an individual, if—*

*(i) such individual (A) is entitled to an annuity under subsection (a)(1) of this section and (B) has attained age 62;*

*(ii) such divorced wife or divorced husband (A) has attained age 65 and (B) is not married; and*

*(iii) such divorced wife or divorced husband would have been entitled to a benefit under section 202(b) or 202(c) of the Social Security Act as the divorced wife or divorced husband of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in such Act,*

*shall, subject to the conditions set forth in subsections (e), (f), and (h) of this section be entitled to a divorced wife's or divorced husband's annuity, if she or he has filed an application therefor, in the amount provided under section 4 of this Act.*

* * * * * * *

(d) SURVIVORS ELIGIBLE FOR ANNUITIES

(1) The following described survivors of a deceased employee who will have completed ten years of service and will have had a current connection with the railroad industry at the time of his death shall, subject to the conditions set forth in subsections (g) and (h) of this section, be entitled to annuities, if they have filed application therefor, in the amounts provided under section 231c of this title—

(i) a widow (as defined in section 216(c) and (k) of the Social Security Act [42 U.S.C.A. § 416(c) and (k)]) or widower (as defined in section 216(g) and (k) of the Social Security Act [42 U.S.C.A. § 416(g) and (k)]) of such a deceased employee who has not remarried and who (A) will have attained the age of sixty or (B) will have attained the age of fifty but will not have attained age sixty and is under a disability which began before the end of the period prescribed in subdivision [(2), and who, in the case of a widower, was receiving at least one-half of his support from the deceased employee at the time of her death or at the time here annuity under subsection (a)(1) of this section began;] *(2)*;

(ii) a widow (as defined in section 216(c) and (k) of the Social Security Act [42 U.S.C.A. § 416(c) and (k)]) *or widower (as defined in section 216(g) and (k) of the Social Security Act)* of such a deceased employee who has not remarried and who (A) is not entitled to an annuity under paragraph (i), and (B) at the time of filing an application for an annuity under this paragraph, will have in [her care] *her or his care* a child of such deceased employee, which child is entitled to an annuity under paragraph (iii) (other than an annuity payable to a child who has attained age 18 and is not under a disability);

* * * * * * *

[(v) The widow (as defined in section 216(c) of the Social Security Act [42 U.S.C.A. § 416(c)]), who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), and a surviving divorced mother (as defined in section 216(d) of the Social Security Act) if such widow, surviving divorced wife, or surviving divorced mother would have been entitled to a benefit under section 202(e) or 202(g) of the Social Security Act [42 U.S.C.A. § 402(e), (g)] as the widow, surviving divorced wife, or surviving divorced mother of the employee if all of his services as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act. For the purpose of this paragraph, the reference in sections 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) and an individual entitled to an annuity under paragraph (ii), and the reference in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv), and the references in section 202(g)(3) of the Social Security

Act to an individual entitled under section 202(a) or section 223(a) of that Act [42 U.S.C.A. §§ 402(a), 423(a)] shall include an individual entitled to an annuity under subsection (a)(1) of this section.]

*(v) the widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the widower (as defined in section 216(g) of the Social Security Act) who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), the surviving divorced husband (as defined in section 216(d) of the Social Security Act), the surviving divorced mother (as defined in section 216(d) of the Social Security Act), and the surviving divorced father (as defined in section 216(d) of the Social Security Act) if such widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father would have been entitled to a benefit under section 202(e), 202(f), or 202(g) of the Social Security Act as the widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father of the employee if all of the employee's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act. For the purpose of this paragraph—*

*(A) the references in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,*

*(B) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(b) of that Act shall include an individual entitled to an annuity under subsection (c) of this section,*

*(C) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202 (e) or (g) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,*

*(D) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iv) of this subdivision,*

*(E) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under paragraph (iii) of this subdivision,*

*(F) the references in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv) of this subdivision, and*

*(G) the references in section 202(g)(3) and section 223(a) of that Act shall include an individual entitled to an annuity under subsection (a)(1) of this section.*

(2) The period referred to in clause (B) of subdivision (1)(i) is the period (i) beginning with the latest of (A) the month of the employee's death, (B) [in the case of a widow, the last month for which she was entitled to an annuity under paragraph (ii) of subdivision (1) as the widow of the deceased employee, or] *the last month for which the widow or widower was entitled to an annuity under paragraph (2) of subdivision (1) as the widow or widower of the deceased employee, or* (C) the month in which the widow's or widower's previous entitlement to an annuity as the widow or widower of the deceased employee terminated because her or his disability had ceased and (ii) ending with the month before the month in which she or he attains age sixty, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(e) COMPENSATED SERVICE; RIGHTS TO RETURN

* * * * * * *

(5) The annuity of a spouse or divorced wife *or divorced husband* under subsection (c) of this section shall, with respect to any month, be subject to the same provisions of this subsection as the individual's annuity. In addition, the annuity of a spouse or divorced wife *or divorced husband* under subsection (c) of this section shall not be payable for any month if the individual's annuity under subsection (a)(1) of this section is not payable for such month by reason of the provisions of this subsection.

(f) DEDUCTIONS ON ACCOUNT OF WORK

* * * * * * *

(2) That portion of the spouse's or divorced wife's *or divorced husband's* annuity under subsection (c) of this section which is derived from the portion of the individual's annuity subject to deductions under subdivision (1) and that portion of the spouse's or divorced wife's *or divorced husband's* annuity as is computed under section 231c(e) of this title shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act [42 U.S.C.A. § 403] in the same manner as if such portion of such spouse's or divorced wife's *or divorced husband's* annuity were a monthly insurance benefit under that Act. In addition, such portion of the spouse's or divorced wife's *or divorced husband's* annuity shall be subject to deductions if the individual's annuity is subject to deductions under subdivision (1) in the same manner as if such portion of such spouse's or divorced wife's *or divorced husband's* annuity were a monthly insurance benefit under the Social Security Act [42 U.S.C.A. § 301 et seq.].

* * * * * * *

(h) MILITARY SERVICE; REDUCTIONS

(1) In the event military service credited under section 231b(i)(2) of this title is or has been used as the basis or as a partial basis for

a pension, disability compensation, or any other gratuitous benefits payable on a periodic basis under any other Act of Congress, any annuity of an individual under subsection (a)(1) of this section which is based in part on such military service shall be reduced, with respect to a calendar month for all or part of which such other benefit is also payable, by (i) the proportion which the number of years of service by which such military service increases the years of service bears to the total years of service, or (ii) the aggregate amount of such pension or other benefit with respect to that month, whichever would result in the smaller reduction: *Provided, however,* That in no case shall the reduction under this subdivision operate to reduce the annuity of an individual under subsection (a)(1) of this section below the amount it would have been if military service had not been included in the individual's years of service. If the annuity of an individual under subsection (a)(1) of this section is reduced for any month by reason of this subdivision, any annuity payable to the spouse or divorced wife *or divorced husband* of such individual for such month under subsection (c) of this section shall be reduced proportionately.

(2) The supplemental annuity provided an individual by subsection (b) of this section shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however,* That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

(3) If a spouse or divorced wife *or divorced husband* entitled to an annuity under subsection (c) of this section or a survivor entitled to an annuity under subsection (d) of this section for any month is also entitled to annuity under subsection (a)(1) of this section for such month, the annuity under subsection (c) or (d) of this section shall be reduced, but not below zero, by an amount equal to the annuity under subsection (a)(1) of this section: *Provided, however,* That the provisions of this subdivision shall not apply if either the spouse or survivor or the individual upon whose earnings record the spouse's or survivor's annuity under subsection (c) or (d) of this section is based rendered service as an employee to an employer, or as an employee representative, prior to January 1, 1975.

* * * * * * *

**§ 231c. Computation of spouse and survivor annuities**

**(a) AMOUNT OF SPOUSES' ANNUITIES; AGE**

(1) The annuity of a spouse or divorced wife *or divorced husband* of an individual under section 231a(c) of this title shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse or divorced wife *or divorced husband* would have been entitled under the Social Security Act [42 U.S.C.A. § 301 et seq.] if such

individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.

* * * * * * *

(f) AMOUNT OF SURVIVORS' ANNUITIES; AGE; ENTITLEMENT

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(2) for purposes of this subsection—

* * * * * * *

[(iii) The provisions of paragraphs (i) and (ii) of this subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 231a(d)(1)(v) of this title.]

*(iii) the provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.*

(g) INCREASES IN SURVIVOR'S ANNUITIES IN ACCORDANCE WITH SUBSEC. (f)

* * * * * * *

[(5) This subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 231a(d)(1)(v) of this title.]

*(5) This subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.*

* * * * * * *

(h) INCREASES IN PARTICULAR WIDOWS' AND WIDOWERS' ANNUITIES

* * * * * * *

(2) [Subdivision (1) of this subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 231a(d)(1)(v) of this title. No amount shall be payable to a person under subdivision (1) of this subsection unless the entitlement of such person to such amount had been determined prior to August 31, 1981.] *Subdivision (1) of this subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the bais of the provisions of section 2(d)(1)(v) of this Act.*

(i) REDUCTIONS IN SURVIVOR'S ANNUITIES

(1) The annuity of any spouse or divorced wife *or divorced husband* under subsection (a) of this section for any month shall, after a reduction pursuant to section 231a(c)(2) of this title, be reduced, but not below zero, by the amount of any insurance benefit (before any deduction on account of work) payable to such spouse or divorced wife *or divorced husband* for that month under title II of the Social Security Act.

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**§ 231d. Annuity beginning and ending dates.**

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(c) INDIVIDUAL'S ENTITLEMENT

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(3) The entitlement of a spouse of an individual to an annuity under section 231a(c) of this title shall end on the last day of the month preceding the month in which (A) the spouse or the individual dies, (B) the spouse and the individual are absolutely divorced, or (C) in the case of a wife *or husband* who does not satisfy the requirements of clause (ii)(A) or (ii)(B) of section 231a(c)(1) of this title (other than a wife *or husband* who is receiving such annuity by reason of an election under section 231a(c)(2) of this title), such wife *or husband* no longer has in [her care] *her or his care* a child described in clause (ii)(C) of section 231a(c)(1) of this title, whichever first occurs. The entitlement of the divorced wife *or divorced husband* of an individual to an annuity under section 231a(c) of this title shall end on the last day of the month preceding the month in which (A) the divorced wife *or divorced husband* or the individual dies or (B) the divorced wife *or divorced husband* remarries.

* * * * * * *

(6) The entitlement of a widow *or widower* of a deceased employee to an annuity under paragraph (ii) of section 231a(d)(1) of this title shall end on (A) the last day of the month preceding the month in which she *or he* dies, (B) the last day of the month preceding the month in which she *or he* remarries after the employee's death, or (C) the last day of the month preceding the month in which she *or he* no longer has in [her care] *her or his care* a child described in clause (B) of such paragraph (ii), whichever first occurs.

**§ 231e. Lump-sum payments**

(a) ELIGIBLE ANNUITIES; APPLICATIONS; REVERSION; DETERMINATION OF STATUS OF RECIPIENT

* * * * * * *

(3) Annuities under section 231a(c) of this title which will have become due a spouse or divorced wife *or divorced husband* of an individual but which will not have been paid at the time of such spouse's or divorced wife's *or divorced husband's* death shall be payable to the individual from whose employment such annuities

derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of subdivision (1) of this subsection as if such annuities were annuities due to an individual but unpaid at the time of such individual's death.

* * * * * * * *

(b) PAYMENTS IN ACCORDANCE WITH THE RAILROAD RETIREMENT ACT OF 1937 AND THE SOCIAL SECURITY ACT

* * * * * * * *

(2) Upon the death of an individual who will not have completed ten years of service prior to January 1, 1975, but who (i) will have completed ten years of service at the time of his death, (ii) will have had a current connection with the railroad industry at the time of his death, and (iii) will have died leaving no widow, surviving divorced wife, widower, *surviving divorced husband*, child, or parent who would on proper application therefor be entitled to receive an annuity under section 231a(d) of this title for the month in which such death occurred, a lump-sum death payment shall be made in accordance with the provisions of section 202(i) of the Social Security Act [42 U.S.C.A. § 402(i)] in an amount equal to the amount which would have been payable under such section 202(i) if such individual's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act. If a lump sum would be payable to a widow or widower under this subdivision except for the fact that a survivor will have been entitled to received an annuity for the month in which the individual will have died, but within one year after the individual's death there will not have accrued to survivors of the individual, by reason of his death, annuities which, after all deductions pursuant to sections 231a(g) and 231a(h) of this title, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this subdivision to the widow or widower to whom a lump sum would have been payable under this subdivision except for the fact that a monthly benefit under section 231a(d) of this title was payable for the month in which the individual died, if such widow or widower will not have died before receiving payment of such lump sum.

(c) PAYMENTS IN THE ABSENCE OF FURTHER BENEFITS

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(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to (A) the sum of 4 per centum of the deceased employee's compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of such employee's compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of such employee's compensation paid after December 31, 1958, and before Janu ·y 1, 1962, plus 8 per centum of such employee's compensation paid after December 31, 1961, and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by such employee after Decem-

ber 31, 1965, and before January 1, 1975, under the provisions of section 3201 of Title 26 (excluding, for this purpose, the amount of the employee tax attributable to that portion of the tax rate derived from section 3101(b) of Title 26), plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service after June 30, 1963, and before January 1, 1975, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of Title 26 to be employee taxes under section 3201 of Title 26, minus (B) the sum of all benefits paid to such employee, and to others deriving from such employee, during his or her life, or to others by reason of his or her death, under this subchapter, the Railroad Retirement Act of 1937 [45 U.S.C.A. § 228a et seq.], or the Social Security Act (excluding, for this purpose, payments to providers of services under section 231f(d) of this title or section 21 of the Railroad Retirement Act of 1937 [45 U.S.C.A. § 228s-g], any supplemental annuity payments made to the employee under section 231a(b) of this title or section 3(j) of the Railroad Retirement Act of 1937 [45 U.S.C.A. § 228c(j)], any amounts by which that portion of the annuities provided the employee under section 231b(a) of this title or his spouse or divorced wife *or divorced husband* under section 231c(a) of this title were increased by reason of the employee's wages and self-employment income derived from employment and self-employment under the Social Security Act, that portion of the annuities provided the employee under section 231b(h) of this title or his spouse under section 231c(e) of this title, and so much of the benefits paid to the employee and to others deriving from him or her under the Social Security Act during his or her lifetime as would have been payable under that Act if such employee had not rendered service as an employee as defined in section 231(b) of this title). In computing compensation for purposes of this subdivision there shall be excluded compensation in excess of $300 for any month before July 1, 1954; compensation in excess of $350 for any month after June 30, 1954, and before June 1, 1959; compensation in excess of $400 for any month after May 31, 1959, and before November 1, 1963; compensation in excess of $450 for any month after October 31, 1963, and before October 1, 1965; and compensation in excess of (i) $450 or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965.

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**§ 231f. Railroad Retirement Board**

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(b) POWERS AND DUTIES

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(2) In the case of—

(A) an individual who will have completed ten years of service creditable under this subchapter.

(B) the wife or divorced wife or husband *or divorced husband* of such individual.

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(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, home health services, hospice care, and outpatient hospital diagnostic services (all hereinafter referred to as "services") under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health and Human Services has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 231g of this title, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

(2) Except as otherwise provided in this subsection, every person who–

(i) has attained age 65 and (A) is entitled to an annuity under this subchapter or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse or divorced wife *or divorced husband* had such spouse's husband or wife ceased compensated service or (C) bears a relationship to an employee which, by reason of section 231(b)(f)(3) of this title, has been, or would be, taken into account in calculating the amount of the annuity of such employee; or

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# TITLE 46: SHIPPING

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## CHAPTER 18—MERCHANT SEAMEN

Sec.

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SHIPMENT OF CREW

561. Apprentices.

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WAGES OF SEAMEN

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599. Advances and allotments.

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EFFECTS OF DECEASED SEAMEN

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627. Distribution by district court.

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**§ 561. Apprentices**

Every Coast Guard official to whom the duties of shipping commissioner appointed under title 53 of the Revised Statutes have been delegated shall, if applied to for the purpose of apprenticing [boys] *youths* to the sea service, by any master or owner of a vessel, or by any person legally qualified, given such assistance as is in [his power] *the power of such official* for facilitating the making of such apprenticeships; but such Coast Guard official shall ascertain that the [boy] *youth* has voluntarily consented to be bound, and that the parents or guardian of such [boy] *youth* have consented to such apprenticeship, and that [he has attained] *the youth has attained* the age of twelve years, and is of sufficient health and strength, and that the master to whom such [boy] *youth* is to be bound is a proper person for the purpose. Such apprenticeship shall terminate when the apprentice becomes eighteen years of age. Such Coast Guard official shall keep a register of all indentures of apprenticeship made before [him] *such official.*

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**§ 599. Advances and allotments**

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(b) It shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the [wages he may earn] *wages he or she may earn* (1) to his grandparents, parents, [wife, sister,] *spouse, sibling* or children; (2) to an agency duly designated by the Secretary of the Treasury for the handling of applications for United States Savings Bonds, for the purpose of purchasing such bonds for the seaman; or (3) for deposits to be made in an account for savings, or investment [opened by him and maintained in his name] *opened by him or her and maintained in his or her name* either at a savings bank or a United States postal savings depository subject to the governing regulations thereof, or a savings institution in which such accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) No allotment shall be valid unless in writing and signed by and approved by the Coast Guard official to whom the duties of shipping commissioner have been delegated. It shall be the duty of the said Coast Guard official to examine such allotments and the parties to them an enforce compliance with the law. All stipulations for the allotment of any part of the wages of a seaman [during his absence] *during his or her absence* which are made at the commencement of the voyage shall be inserted in the agreement and shall state the amounts and times of the payments to be made and the persons to whom the payments are to be made, or by directing the payments to be made to a savings baqnk or a United States postal savings depository in an account maintained in his name.

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**§ 627. Distribution by district court**

If the money and effects of any seaman or apprentice paid, remitted, or delivered to the district court, including the moneys received for any [part of his effects] *part of his or her effects* which have been sold, either before delivery to the district court, or by its directions, do not exceed in value the sum of $300, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect to the seaman or apprentice, or of [his money and effects,] *his or her money and effects,* as the said court thinks fit to allow, the court may pay and deliver the said money and effects to any claimants who can prove themselves either to be [his widow or children,] *the surviving spouse or children of such person,* or to be entitled to the effects of the deceased under [his will,] *his or her will,* or under any statute, or at common law, or to be entitled to procure probate, or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or may, if it thinks fit so to do, require probate, or letters of administration or confirmation, to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and if such money and effects exceed in value the sum of $300, then, subject to deduction for expenses, the court shall pay and deliver the same to the legal personal representatives of the deceased.

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# TITLE 48: TERRITORIES AND INSULAR POSSESSIONS

## CHAPTER 8—GUANO ISLANDS

Sec.

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1413. Completion of proof on death of discoverer.

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1415. Restrictions upon exportation.

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1418. Employment of land and naval forces in protection of rights.

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**§ 1413. Completion of proof on death of discoverer**

If the discoverer dies before perfecting proof of discovery or fully complying with the provisions of section 1412 of this title, [his widow, heir, executor, administrator, or assigns,] *the surviving spouse, heir, executor, administrator, or assigns of the discoverer* shall be entitled to the benefits of such discovery, upon complying with the provisions of this chapter. Nothing herein shall be held to

impair any rights of discovery or any assignment by a discoverer recognized prior to April 2, 1872, by the United States.

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**§ 1415. Restrictions upon exportation**

No guano shall be taken from any island, rock, or key mentioned in section 1411 of this title, expect for the use of the citizens of the United States or of persons resident therein. The discoverer, or [his widow, heir, executor, administrator, or assigns,] *the surviving spouse, heir, executor, administrator, or assigns of the discoverer* shall enter into bond, in such penalty and with such sureties as may be required by the President, to deliver the guano to citizens of the United States, for the purpose of being used therein, and to none others, and at the price prescribed, and to provide all necessary facilities for that purpose within a time to be fixed in the bond; and any breach of the provisions thereof shall be deemed a forfeiture of all rights accruing under and by virtue of this chapter.

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**§ 1418. Employment of land and naval forces in protection of rights**

The President is authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the discoverer or of [his widow, heir, executor, administrator, or assigns.] *the surviving spouse, heir, executor, administrator, or assigns of the discoverer.*

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## CHAPTER 10—TERRITORIAL PROVISIONS OF A GENERAL NATURE

Sec.

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1461. [Same; Bigamist.] *Repealed.*

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**[§ 1461. Same; bigamist**

[No polygamist, bigamist, or any persons cohabiting with more than one woman, and no women cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States has exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory, or other place, or be eligible for election or appointment to or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States.]

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# TITLE 50: WAR AND NATIONAL DEFENSE APPENDIX

## Emergency and Post-War Legislation

## SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

### Act Oct. 17, 1940, c. 888, 54 Stat. 1178

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ARTICLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENTS, LEASES

Sec.

530. Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment.

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ARTICLE V—TAXES AND PUBLIC LANDS

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563. Death or incapacity during or resulting from service as affecting rights; perfection of rights.

564. Desert-land entries; suspension of requirements.

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570. Homestead entrymen permitted to leave entries to perform farm labor.

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## TEMPORARY APPOINTMENTS OF ARMY NURSE CORPS MEMBERS, ETC., AS OFFICERS OF ARMY OF THE UNITED STATES

ACT JUNE 22, 1944, C. 272, 58 STAT. 324

Sec.

1591. [Army Nurse Corps members, dietetic, and physical-therapy personnel of Medical Department, etc.; authority and command; appointment as affecting prior appointment.] *Repealed.*

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2004. Internees.

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(d) Persons entitled to detention benefits.

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(f) Application of sections 1701-1706 and 1711-1717 of Title 42; factors for determining benefits; effective date.

(g) Benefits for civilian internees in Korea, and dependents; time.

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(i) Detention benefits for civilian internees in Southeast Asia; definitions; authority of Commission; claim for benefits; rate of compensation; persons entitled to payments; certification for payment; filing date; determination of claims; appropriations.

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### § 536. Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment

(1) No eviction or distress shall be made during the period of military service in respect of any premises for which the agreed

rent does not exceed $150 per month, occupied chiefly for dwelling purposes by the [wife] *spouse*, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.

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(4) The Secretary of the Army, the Secretary of the Navy, or the Secretary of the Treasury with respect to the Coast Guard, as the case may be, is empowered, subject to such regulations as he *or she* may prescribe, to order an allotment of the pay of a person in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by the [wife] *spouse*, children, or other dependents of such person.

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**§ 563. Death or incapacity during or resulting from service as affecting rights; perfection of rights**

(1) If any person whose application for a homestead entry has been allowed or who has made application for homestead entry which may thereafter be allowed or who has a valid settlement claim dies while in military service or as a result of such service, [his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or] *the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children, or* their legal representatives, may proceed forthwith to make final proof upon such entry or upon an application which is allowed after the applicant's death, or upon a homestead application thereafter allowed based on a valid settlement claim, and shall be entitled to receive a patent for such land. The death of such person while in military service or as a result of such service shall be construed to be equivalent to a performance of all requirements as to residence and cultivation upon such homestead or claim, notwithstanding the provisions of section 502 of this Act [section 562 of this Appendix].

(2) If such person is honorably discharged and because of physical incapacities due to such service is unable to return to the land, he *or she* may make final proof without further residence, improvement, or cultivation, at such time and place as the Secretary of the Interior may authorize, and receive a patent to the land entered.

(3) The Act of July 28, 1917 (40 Stat. 248) [sections 241 and 242 of Title 43] is repealed.

**§ 564. Desert-land entries; suspension of requirements.**

(1) No desert-land entry made or held under the desert-land laws prior to the entrance of the [entryman] *enterer* or [his] *his or her* successor in interest into military service shall be subject to contest or cancelation for failure to make or expend the sum of $1 per acre per year in improvements upon the claim or to effect the reclamation of the claim during the period the [entryman] *enterer* or [his] *his or her* successor in interest is engaged in military service or during a period of six months thereafter or during any period of hospitalization because of wounds or disability incurred in

the line of duty. The time within which such [entryman] *enterer* or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of [his] *his or her* period of service and the six-month's period and any such period of hospitalization.

(2) If such [entryman] *enterer* or claimant is honorably discharged and because of physical incapacities due to such service is unable to accomplish reclamation of, and payment for, the land, [he] *he or she* may make proof without further reclamation or payments under such rules as the Secretary of the Interior may prescribe and receive patent for the land entered or claimed.

(3) In order to obtain the benefits of this section, such [entryman] *enterer* or claimant shall, within six months after the effective date of this Act [Oct. 17, 1940] or within six months after [his] *his or her* entrance into military service, file or cause to be filed in the land office of the district in which [his] *his or her* claim is situated a notice that [he] *he or she* has entered military service and that [he] *he or she* desires to hold the desert claim under this section.

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**§ 570. Homestead entrymen permitted to leave entries to perform farm labor**

(1) During the pendency of any war in which the United States may be engaged while this Act [sections 501 to 591 of this Appendix] remains in force any homestead [entryman] *enterer* shall be entitled to a leave of absence from [his] *his or her* entry for the purpose of performing farm labor. The time actually spent in farm labor shall be counted as constructive residence, if within fifteen days after leaving [his] *his or her* entry to engage in such labor the [entryman] *enterer* files a notice of absence in the land office of the district in which [his] *his or her* entry is situated, and if at the expiration of the calendar year the [entryman] *enterer* files in that office a written statement under oath and corroborated by two witnesses giving the date or dates when [he] *he or she* left [his] *his or her* entry, the date or dates [his] *his or her* return, and the place where and person for whom [he] *he or she* was engaged in farm labor during such period or periods of absence.

(2) Nothing in this section shall excuse any homestead [entryman] *enterer* from making improvements or performing the cultivation upon [his] *his or her* entry required by law. The provisions of this section shall apply only to persons whose applications have been allowed or filed prior to the effective date of this Act [Oct. 17, 1940].

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**[§ 1591. Army Nurse Corps members, dietetic, and physical-therapy personnel of Medical Department, etc.; authority and command; appointment as affecting prior appointment**

[Notwithstanding any other provision of law, members of the Army Nurse Corps, female persons having the necessary qualifica-

tions for appointment in such corps, female dietetic and physical-therapy personnel of the Medical Department of the Army (exclusive of students and apprentices) appointed under the provisions of the Act of December 22, 1942 (56 Stat. 1072) [former section 164 of Title 10], and female persons having the necessary qualifications for appointments in such department as female dietetic or physical-therapy personnel under the provisions of the Act of December 22, 1941 (56 Stat. 1072) [former section 164 of Title 10], may be appointed as officers in the Army of the United States under the provisions of the joint resolution of September 22, 1941 (55 Stat. 728), as amended by the Act of July 7, 1943 (Public Law 114, Seventy-eighth Congress) [set out as a note under section 484 of Title 10], in the grades therein prescribed, and assigned, respectively, to the Army Nurse Corps and Army Medical Service. All persons so appointed and assigned shall have authority in and about military hospitals as regards medical and sanitary matters and all other work within the scope of their professional duties next after other officers of the Army Medical Service and, except as above provided, shall exercise command only over those members of the Army of the United States specifically placed under their command. Members of the Army Nurse Corps so appointed and assigned shall not by acceptance of their appointments vacate their appointments in the Army Nurse Corps.]

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**§ 2004. Interness**

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(d) PERSONS ENTITLED TO DETENTION BENEFITS

The detention benefits allowed under subsection (b) of this section shall be allowed to the person entitled thereto, or, in the event of his *or her* death, only to the following persons:

(1) Widow or [husband] *widower* if there is no child or children of the deceased;

(2) Widow or [husband] *widower* and child or children of the deceased, one-half to the widow or [husband] *widower* and the other half to the child or children in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or [husband] *widower*; and

(4) Parents (in equal shares) if there is no [husband] *widow, widower,* or child.

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(f) APPLICATION OF SECTIONS 1701 TO 1706 AND 1711 TO 1717 OF TITLE 42; FACTORS FOR DETERMINING BENEFITS; EFFECTIVE DATE

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(7) No person, except a widow *or widower* or a child, shall be entitled to benefits for disability with respect to *herself or* himself, and to death benefits on account of the death of another.

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(g) BENEFITS FOR CIVILIAN INTERNEES IN KOREA, AND DEPENDENTS; TIME

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(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the person entitled thereto, or, in the event of his *or her* death, only to the following persons:

(A) widow or [husband] *widower* if there is no child or children of the deceased;

(B) widow or [dependent husband] *widower* and child or children of the deceased, one-half to the widow or [dependent husband] *widower* and the other half to the child or children in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or [dependent husband] *widower.*

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(i) DETENTION BENEFITS FOR CIVILIAN INTERNEES IN SOUTHEAST ASIA; DEFINITIONS; AUTHORITY OF COMMISSION; CLAIM FOR BENEFITS; RATE OF COMPENSATION; PERSONS ENTITLED TO PAYMENTS; CERTIFICATION FOR PAYMENT; FILING DATE; DETERMINATION OF CLAIMS; APPROPRIATIONS

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(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the civilian American citizen entitled thereto, or, in the event of his *or her* death, only to the following persons:

(A) the widow or [husband] *widower* if there is no child or children of the deceased;

(B) the widow or [dependent husband] *widower* and child or children of the deceased, one-half to the widow or [dependent husband] *widower* and the other half to the child or children in equal shares;

(C) the child or children of the deceased in equal shares if there is no widow or [dependent husband] *widower.*

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